

# **POLICE TORTURE CASES** **SRI LANKA** **1998 -2011**



**ASIAN HUMAN RIGHTS COMMISSION**

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Cover page is a graphic that depicts the transformation of the sytem of administration of justice in Sri Lanka, which has undermined judiciary and enhance the powers of the police.

**EDITED BY BASIL FERNANDO**

Pictures of vitims of police torture who have narrated their stories to our local organisations which are now available on YouTube.









## **Introduction**

The Asian Human Rights Commission (AHRC) has compiled a report of 1500 cases of police torture in Sri Lanka between 1998 and 2011. This particular report summarizes 323 of the most serious cases of torture. The most notable finding of this report is that almost all of the victims whose cases were summarized were randomly selected by the police to be arrested and detained for a fabricated charge. Perhaps the most shocking aspect of the criminal justice system in Sri Lanka is the overwhelmingly large number of charges which are fabricated by the police on a daily basis. Torture is used to obtain a confession for these fabricated charges.

### **The Failure of the Complaints System**

The reason for such arrests lies in the inefficiency and ineffectiveness of the complaint system. Firstly, complaints give rise to opportunities for the police to make social, political or financial gains, by means of bribery or extortion of the victims. If victims fail to pay these bribes, they may be tortured. There are numerous complaints made by citizens regarding crimes and disputes that the police are unable to resolve by way of competent criminal justice enquiries. The inaction of the police leads to a rise in public pressure which the police counter by randomly selecting people, usually from those of less privileged socio-economic statuses, as perpetrators of these crimes. These unsuspecting people rightly deny their involvement in the crime in question, and torture is used to force them to sign confessions written by police officers. There may be occasions in which the police are able to determine who the true offender is, but these offenders are often well-experienced in the art of bargaining with the police and maneuvering the criminal justice system, and are thereby kept from their rightful punishments.

### **The Loss of Command Responsibility**

The use of police torture has become endemic to the criminal justice system in Sri Lanka today, but it has been a problem since the establishment of the criminal justice system in colonial times. The most striking difference between the torture that took place then and that which takes place now is the pervasiveness of state-sponsored violence today. In the past, there were controls placed on the police from the high-ranking officers, from the Inspector General of Police (IGP) to the Senior Superintendents of Police, the Deputy Inspector General of Police, Assistant Superintendent of Police (ASP) as well as the Officer-in-Charge (OIC) of each police station, to ensure professional integrity at each level of the system. These controls, which served to maintain professionalism and efficiency within police stations, have been dissolved.

### **The Failure of ASPs to Supervise Police Stations**

The officer immediately responsible for any problems within the police station is the ASP. While the OIC supervises the daily goings-on within the police station, it is the duty of the ASP to supervise the OIC and, by extension, the activities of the police station. The ASP should ensure that each station within their area is following all the rules stated by the police departmental code. Within this code, there are a number of standard procedures for supervision. For example, the

duties of the OIC include reviewing criminal files, looking into the conditions of the detainees and ensuring that procedures regarding arrest and detention are followed. This supervisory aspect has all but disappeared. Any understanding of police torture in Sri Lanka should involve an examination of the failings of the ASP in their basic duties. The ASP and other high-ranking officers are supposed to supervise the OIC and other police officers, and ensure that police duties are carried out with efficiency and professional integrity. However, such responsibilities exist only in name, and are rarely carried out in practice.

### **The Control of the Policing System by Politicians**

At this point, an examination of the factors that led to this deplorable state is required. It is clear that the 1978 Constitution had an extremely negative effect on the policing system. This constitution led to the politicization of the police by politicians - particularly the President and the Minister of Defense, as well as powerful members of the ruling party – who began to control the actions of the police. Since professional etiquette had to be flouted in order to meet the needs of these politicians, investigations were not carried out according to the rule of law. Politicians would demand for certain citizens to be arrested or released for reasons of social gain or political expedience. Police officers have repeatedly said that to deny requests from high-ranking state officials would result in demotions, transfers or even the loss of their jobs. Nevertheless, this is not a sufficient excuse for their departure from the procedures of the law. The law states that police officers should not obey any orders other than lawful orders from lawful superiors, i.e. the OIC up to the IGP. However, this hierarchical order embodied in the command responsibility doctrine does not operate effectively in Sri Lanka. As a result, the policing system is failing. Moreover, the police officers themselves have lost confidence in the political system due to their constant need to grapple with the internal contradictions of the inability to enforce command responsibility and a presumed obligation to use their roles to meet the needs of politicians.

### **A Few Case Examples**

Roshan Chanaka: This situation has produced cases which are undeniably deplorable. Each of the cases we will discuss is a demonstration of the dire state of the Sri Lankan policing system. The most recent case was of a young worker in the Free Trade zone, Roshan Chanaka who was shot by police in the factory where he worked. Government officials later admitted that there had been no reason for the police to use firearms on workers, particularly one who had not aroused their suspicion in any way. As a result of this incident, government officials ordered for each of the 80 officers at the local police station to be transferred. But such a transfer does not alleviate the problem.

Gerald Perera; Another well-known case is that of Gerald Perera. Mr. Perera resided close to Sri Lanka's capital city Colombo, in the suburb of Wattala. In the nearby town of Hendala, there was a triple murder, but the police were unable to ascertain any suspects for this crime. The case was passed on to the ASP who asked the special team of police headed by an ASP to investigate the crime. Under the guidance of the ASP, the team arrested Gerald Perera. There was no evidence of

any kind to warrant suspicion of Mr. Perera specifically, the only information the unit had was that a man named Gerald knew something about the incidents. This information led the unit to arrest the first man named Gerald who they could find.

Mr. Pereira was a harbor worker and was married with three children. He was arrested and taken to the police station without any information as to why he was being arrested. He was then hung from ceiling beams and beaten with iron rods as police officers demanded information about the murders. These facts were established in the Supreme Court. The court found that there was no reason for arrest and, even if there had been reason, Mr. Perera should have been released upon the police learning of his whereabouts on the night of the murder.

However, this did not happen, and as a result of the torture inflicted upon him, Mr. Perera suffered renal failure and was unconscious in the hospital for over two weeks. This incident underwent a criminal investigation over three years after it took place, and the Supreme Court found the police officers who handled Mr. Perera's case to be guilty of torture.

During the investigation, when the police officers became aware that they would be imprisoned for seven years for this crime, they killed Mr. Pereira before he could give evidence in court. The murder case of Gerald Pereira continues to this day.

Case of Sarath Kumara Nidos: Another case that demonstrates the irrationality and violence with which police officers treat suspects is that of a man called Nidos from Moratuwa. Nidos was a worker who was arrested, brought to the police station and subjected to physical assault, as officers demanded that he hand over gold items that he had stolen from a residence. Nidos had no involvement in the crime in question, but police officers continued to torture him for over nine days, under the assumption that he would divulge information under duress. Over the course of the nine days, Nidos' family made a number of complaints to the IGP, the country's national human rights commission as well a number of other organizations. The various institutions informed the police of the family's complaints, and the police produced fabricated evidence in court that Nidos had been found in possession of illegal drugs on the night before his arrest, and was therefore ineligible for bail.

Even though his family had made official complaints to a number of authorities about the behavior of the police towards Nidos, no enquiry of the police was made because this would have led to disciplinary action and potential suspension of the OIC of the station. The other supervisory officers were well aware of what had happened, but chose to keep silent on the matter. Many months later, a high court judge released Nidos on bail, stating that the charges had been found to be false.

This is the manner in which the police operate within the criminal justice system. Higher officers do not investigate charges that lower-ranking officers have committed torture. ASPs do not act on complaints made by citizens for efficient, effective action and intervention into crimes.



## **Why has this System Ruptured?**

Firstly, lower-ranking police officers often have connections with local politicians, whose word takes precedence over that of higher-ranked officers. Secondly, the police officers are well aware of the failings of the system, but they are under pressure by the public to convict criminals. Furthermore, they often feel that if they interfere with this method of handling cases, there will be conflicts between the higher and lower ranks, and they are wary of disturbing this established order.

The Constitutional Reasons for the Collapse of the Police -- Replacing Legal Mechanisms with Extra-Legal Measures;

The fissures within the institution of the police are symptomatic of a deeper collapse of the rule of law in Sri Lanka. The 1978 Constitution paralyzed public institutions. The 17th Amendment, which introduced a system of credible selection of higher officers on the basis of merit rather than political interference, was passed to remedy the effects of this constitution. However, the 17th Amendment was indirectly abolished by the 18th Amendment, which nullified the statutes outlined in the 17th Amendment. As a result, there is no working rule of law system in Sri Lanka. In the absence of such a system, the state must rely on extralegal methods to control crime and other forms of civil unrest. Numerous problems then arise because it is not possible to control extralegal methods through legal means. Those who adopt ad hoc mechanisms to deal with civil unrest cannot be expected to act according to the rule of law. It is this difficulty that makes it almost impossible for Sri Lankan society to effectively counter police torture, extrajudicial killings, disappearances and corruption. When all effective mechanisms are extralegal, and there is no legal mechanism that functions effectively, the rules by which society operates lack structure and order.

The Sri Lankan people are making efforts to publicize their complaints with the use of YouTube and other such technological means. But ultimately, these complaints are of no use because the system is grounded on extralegal mechanisms, so these complaints will never be seen within a rule of law framework, and therefore cannot be investigated according to legal methodologies.

## **Impossibility of Investigations into the State Approved Extra-Legal Actions**

This has led to a situation of chaos; it is impossible to effectively investigate a case of torture in Sri Lanka. There have been attempts to change this system. Act 22, which was passed in 1994, did recognize torture and other cruel, inhuman and degrading treatment as a crime. Moreover, it stated that the punishment for torture by a police officer would be seven years imprisonment. This act has been enforced in the past, but has not been implemented in recent years.

## **Stopping Investigations into Torture by Special Investigations Unit of C.I.D**

The method of enforcing the Convention against Torture (CAT) Act was through investigation, which, between 2005 and 2008, was done through a special unit of enquiry of the criminal investigation division of Colombo. The special unit consists of a number of highly experienced police officers who work outside of the normal system and are under strict supervision by higher-

ranked officers. A high level of investigation and discipline is expected from these officers. Cases would be referred to this unit by the Attorney General's department or the IGP, and then investigated. While the original system was in place, investigators had sufficient evidence to find that torture had taken place in over 60 cases, and indictments were filed against the suspects in question.

However, since the appointment of CR De Silva and, thereafter, the appointment of Mohan Peiris as Attorney General of Sri Lanka, references to the special unit have been halted. CR De Silva and later Mohan Peiris have stated that they do not want to bend to pressure from external agencies, namely the United Nations and other human rights organizations, which have called for credible investigations into crimes. CR De Silva made a policy to dismiss these complaints and employed a new system where complaints are received and investigated by the Attorney General's department, and if necessary, are then referred to this special unit.

This system has also been dissolved. Today, there is no credible method of investigation into torture in Sri Lanka. Despite numerous recommendations by UN agencies and human rights organizations, the recommendations of the act have not been implemented, and the CAT Act is seen as little more than a piece of paper. So long as credible investigations into torture do not exist, there is no possibility for the elimination of torture at the hands of state officials.

### **Stopping Inquiries by the National Human Rights Commission**

There have been minor forms of criminal investigation into torture by the country's National Human Rights Commission. However, rather than being thorough investigations in a criminal law sense, these investigations are more like mediation sessions similar to a labor tribunal. But even these investigations have ceased due to lack of compliance. Indeed, Sri Lanka's human rights commission does not have any effective, functioning capacity.

### **The Changes in the Adjudication of Fundamental Rights Cases**

The third remedy available for remedying torture is that of fundamental rights. With this remedy, the complainant would file a complaint as an affidavit. If the court is satisfied that there is prima facie case, they will issue notice. A rule has been established within the Attorney General's department with reference to cases of torture that states that the Attorney General will not defend defendants, and will not interfere even if the Attorney General is made a party to the complainants. Moreover, the Attorney General will not testify on behalf of police officers. However, when a case is brought to the Supreme Court, the case is often referred to the Attorney General's department without issuing notice. The Attorney General's department then contacts the police for their opinion on the matter. This opinion is often given without investigation, and the Attorney General's office will then state these objections to the petition in court.

Since objections are made at this stage rather than when the notice is initially issued, the trial is delayed, sometimes for many years, and justice for the torture victim becomes a distant dream. Since the victims of torture generally come from a lower socio-economic background, a drawn out legal process is particularly difficult because Sri Lanka does not have a state-sponsored legal aid scheme.

### **Delays and Absence of Witness protection**

Moreover, the delays in trials for numerous years often result in increased pressure on both victims and witnesses of crimes. There is no witness protection scheme in Sri Lanka. A law was proposed about two years ago by the Parliament, but it has not been brought forward for discussion since then. This is a deliberate attempt to allow these practices to continue. Indeed, if witnesses do have protection, more witnesses will come forward with credible information about cases and the legal process will be forced to operate more efficiently. The absence of a witness protection scheme serves to paralyze the legal process. Consequently, people are reluctant to make complaints and those who do complain often rescind their complaints partway into the investigation process. If victims and witnesses do not come forward with complaints and information about crimes, constitutional remedies cannot take place. As a result of this legal paralysis, an inherent understanding of what is legal and illegal is rendered meaningless.

### **Displacement of the Law**

These are the kinds of problems that are intertwined with the issue of police torture. Torture at the hands of state officials is a great problem, but in the wider scheme of Sri Lanka's collapsed rule of law system, it is only a symptom of a larger problem of state and societal loss of respect for the law. There is no investment being made into the maintenance of a functional legal system under command responsibility and legal rules. The politicization of these systems has collapsed the legal process and made the welfare of citizens dependent on the whims of politicians. When there is a legal vacuum, society and the state rely on extralegal forces to control civil unrest and other illegalities. Thereafter, there is greater potential for military agencies to play a primary role in the maintenance of societal control.

### **Criminals Allowed Function as Enforcers of Law**

Moreover, there is greater possibility for criminals to take on roles as enforcers of order and maintenance of society. We can take the incident that took place with the boy in Karunika as an example of this. When people organized demonstrations, there were employees of politicians waiting to assault them with poles. Since these assailants play a great role in the rule of law system, people tend to go to them rather than law enforcement agencies to make complaints and solve problems.

### **The Executive is Above the Law**

The most important element of the criminal justice system that must be altered for torture to be eliminated is the 1978 Constitution, which allows for the supremacy of the executive over the judiciary. The judiciary must be re-empowered to play the role required of them in a functioning democracy. They must work to bring the policing system back to function with command responsibility. These are difficult challenges but if they do not happen, there will inevitably be more torture and more criminality. In the future, the military could step into the vacuum created by the collapse of the policing system, and the anarchy that exists at present could become even worse.

Basil Fernando

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Asian Human Rights Commission

### **The organisations involved in this study from Sri Lanka**

**Janasansadaya**—Panadura; this is an organisation which works mostly in the south of Sri Lanka from the Panadura area to Mattara. It is an extremely well known, popular organisation and by now whenever torture cases take place in these areas people contact this organisation. Over the years the organisation has grown and has acquired extensive experience which has also helped the learning process of the activists in the organisation. The organisation has also built linkages with prison authorities in the area and is also quite well known to the police authorities and interacts with these authorities effectively. The organisation now is also a partner in a project with the European Union and RCT. It is also making an attempt to increase its funding resources with the UN voluntary fund in the future.

**The Home for Victims of Torture**—Kandy; this organisation has been a member organisation of the Sri Lanka Prevention of Torture Project from its very inception. The organisation has the most extensive experience, particularly in the area of trauma counseling, psychological assistance, protection of victims and solidarity work. The organisation has developed long term contacts with many victims, particularly from the point of view of providing security and rehabilitation. It has also engaged in providing legal support to the victims. This organisation works in the Kandy area which has different types of social groups such as the traditional Kandy aristocracy as well as Kandy Sinhala peasantry, the estate workers who are among the poorer sections of Sri Lanka and are of India origin. There are also other communities. In this area the caste prejudices are quite strong and in the periods of repression has seen some of the worst types of human rights violations. The emergence of this organisation to work against torture in this area is also quite significant.

**SETIK**—Kandy; is the official section of the Catholic Church working in the economic, social and development areas. Within this large organisation the small unit for the prevention of torture has existed since the beginning of the project. This organisation mainly works in the area of providing legal assistance to victims. In the recent past due to administrative problems within the official church organisation the development of this organisation has been slow. However, it now has a new leadership and the organisation intends to extend its work into all areas of concern to this project. Being an official church organisation it does have a lot of potential to contribute to this project by way of providing security to victims and also taking this work to the estate workers which are the poorer section of this area. It also has the capacity to influence policy matters through the official channels of the Catholic Church.



**Right to Life**—Negombo; this organisation works in the Negombo area which is also an area where a variety of social groups are present. In the sea coast are the fisher folk while there is also a large suburban population. Also due to the presence of many factories a large working class population. Right to Life is working on providing legal assistance and also providing protection and solidarity work. Policing in this area is extremely brutal. Many of the cases previously taken up by the organisation demonstrate that torture is endemic and impunity is entrenched. In the midst of this socio-political situation this group has done extensive work. One of the most significant capacities of this organisation is the solidarity work with a large network of other organisations in the country. The leadership comes from the trade union movement and has long term experience in strategies of advocacy and lobbying. It played a significant role in the open forum which was a gathering of many NGOs to work towards democracy, free and fair elections and the defense of freedom of speech. The group has an interest in developing its capacity to work in the area of trauma counseling and psychological assistance.

**Citizens Committee of Gampaha;** this organisation works in the largest province in Sri Lanka. Its work has consisted mostly of support to victims in the area of legal assistance. Many of the cases taken up by this organisation are now before several courts. Although the organisation is quite small at present it has great potential due to the fact that it is placed in one of the most important provinces in the country and is quite close to the largest working class areas. Its group members have participated in the training for trauma counseling and psychological assistance and have good experience in organizing street movement, educational meetings and lobbying work with the authorities.

**The Rule of Law Forum,** Nugegoda, Colombo; previously the Forum was mainly engaged as the coordination unit for the AHRC for many cases undertaken before higher courts in Sri Lanka. It has an extensive record of intervention in some of the major cases of the organisation. It also coordinates the work of the AHRC in the printing and distribution of books to all the libraries in the country as well as the civil society organisations in Colombo. It has help with the production, printing and distribution of ten books which is the materials used by all the network of the organisations. The organisation has now being trained at University in psychology. This year the organisation will begin work in the trauma counseling area with this new addition. The organisation is placed in Colombo itself which is the capital city and is therefore an essential point of contact for all activities.

#### *4.3.2. Future collaboration between local partner organisation, the AHRC and RCT*

During this period of the project the AHRC and RCT will assist the local organisations to strengthen their capacity to develop funding for future work relating to this project. Already several organisations have applied and received funding from the United Nations Voluntary Fund for Torture Victims. One organisation also has a joint project with RCT funded by the European Union. Strengthening the local capacity to improve the sustainability will be one of the priorities during the next period of the project. The political changes in the country towards better policing and the improvement of the administration of justice would contribute a great deal to the state taking greater responsibility in the elimination of torture. In the health area also improved state commitment will result in the state bearing the greater responsibility for financial and other resources relating to the elimination of torture and treatment of victims.

The AHRC is a regional human rights organisation and therefore intends to be a permanent part of the landscape pertaining to the promotion and protection of human rights in the region. As the prevention of torture is central to human rights protection the AHRC commitment in this regard will remain a permanent aspect of the organisation regarding Sri Lanka as well as other countries of the Asian region.

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### 1998

1. March 8, V.K. Swarnarhka
2. May 21, Michael Edward
3. August 6, Weerasinghe Arrachige Janaka Chaminda
4. December 30, Anura Sampath

### 1999

5. October 28, Basnayake Mudiyansele Ariyathilake Dissanayak
6. October 1999 and October 2002, A.H. Ariyadasa, A.H. Sudath

### 2000

7. June 12, Lasantha Jagath Kumara Mullakandage
8. December 3, Angaline Roshana Michael

### 2001

9. January 7, L.P. Maithreepala Senadira
10. January 9, Amarasinghe Morris Elmo De Silva
11. January 11, Anura Wijesiri
12. January 29, Rajapakse Pathirage Kavinda
13. March 19, Wigikala Nathakumar and Sivamani Arjunan

14. March 24, Uchitha Thussara Kumaea
15. May 2, Ajith Nawaratne Bandara
16. September 11, Ranjini Rupika Hewage
17. October 6, Namal Fernando
18. November 11, Kodithuwakku Arachchige Samarasinghe
19. November 24, Sathasivam Rathykala

## 2002

20. February 19, Bandula Rajapakse, R.P. Sampath Rasika Kumara, Ranaweera and Chaminda Dissanayake
21. March 8, Herat Pathirannehelage Nandini Sriyalatha Heart
22. March 22, Galappathi Guruge Gresha De Silva
23. April, Yoga Clement Benjamin
24. April 20, S. Lalith Rajapakse
25. May 28, Eric Antunia Kramer
26. June 3, A R.L.Ananda
27. June 3, Waragodamudalige Gerald Mervyn Perera
28. June 4, H. Fonseka
29. July 9, Shazyed Mohomad Issas Hussane Moulana
30. June 12, Ehalagoda Gedara Tennekoon Banda
31. June 28, Kasturi Arrchige Janaka Perera and Mahamarakkalge Tilan Perera
32. June 29, Maldeni Kankanamage Piyaratne
33. June 29, Uduwa Widanelage Susil Jayalath
34. June 30, Arthur Vithange and Anusha Vithana
35. July 8, T.K.Hiran Rasika and E.A Kasun Madusanka
36. July 9, V.G.G. Chaminda Premalal
37. July 30, S.A. Piyadasa, S.A. Milantha and Aruna Kumara
38. August 1, Hettiarachchige Krishantha Sampath

## 2003

39. January 1, Koralagamage Sujith Dharmasiri
40. January 8, Bambarende Gamage Suraj Prasanna
41. February 1, T.A. Premachandra
42. February 6, Michael Anthony Fernando



43. May 10, Kurukulasuriya Pradeep Niranjana
44. June 29, Sunil Hemachandra
45. July 7, R. Dhanapalasingham, R.Saravananaraj and M. Prabhakaran
46. July 20, B.G. Chamila Bandara Jayaratne
47. July 20, Bandula Padma Kumara and Saman Kumara
48. July 29, Wijekone Mudiyanseelage Sujith Priyantha Wijekone
49. August 7, Udayanga Perera
50. August 17, Kurupanawa Gamage Nihal
51. August 27, Garlin Kankanamge Sanjeeva
52. August 27, R.M. Loku Banda
53. August 30, M. Riswan, S.Ravichandran and A. Latief
54. September, Hikkaduwa Liyanage Sandun Kumara
55. September 1, Dawundage Pushpakumara
56. September 5, C.P.S.Anthony and C.J.Lafaber
57. September 5, Okanda Hevage Jinadasa
58. September 6, Raman Pillai Kesam Nayar Ashokan
59. September 10, Hikkaduwa Liyanage Sandun Kumara
60. October 22, Dope Pathiranalage Lasantha Priyankara
61. November 1, Bamunuarachchi Pathiranalage Sathkumara
62. November 10, Samarathunga Liyana Arachchige Kulathunga
63. December 3, Nishantha Kumara
64. December 6, Shiron Jeewantha Pallekanda
65. December 7, Jayasekara Vithanage Saman Priyankara
66. December 26, U Kekula Ratnayake
67. December 31, Ashoka P. Kumara, Saman Puspakumara, N. Ratnayaka,
68. December 31, Tennakoon Mudiyanseelage Gunesequera

## 2004

69. January 8, D.G. Premathilaka
70. February 2, Koralliyanaage Palitha Tissa Kumara
71. February 16, D.G. Athula Saman Kumara
72. February 22, Bellanavithanage Sanath Yasaratne
73. March 9, Dehiwatte Gedera Jayathilaka
74. April 17, Muthuthanthrige Chamal Ranjith Cooray
75. May 17, Senarath Hettiarachchilage Abeysinghe
76. May 30, Madugoda Ralalage Don Saman Priyantha Gunaratne
77. August 7, Alagiyawadu Lakmal Chathuranga and L.P. Pradeep Kumarage
78. September 2, Bamina Hannadige Gamini Fernando

79. September 29, Rathnasiri Senadheera
80. October 3, Herman Quintus Perera
81. December 5, M. Ramson Peiris
82. December 22, P.G.R. Jayasekera

## 2005

83. February 13, K Victor Fernando
84. February 28, S. D. Kodituwakku, A. B. Abeywardena, A. Ruwantissa, W. Shantha and Sujeewa Kodituwakku
85. March 26, N. Sandasirilal Fernando
86. April 2, J. A. Upendra Gayan
87. April 10, Don Wijeratna Munasinghe
88. April 10, H.L. Susantha Kulathunga
89. April 30, R. Dammika Dissanayake
90. May 20, Kosma Sumanasiri
91. May 29, Lelwala Gamage Nandiraja
92. July 13, Hettiarachchige Abeysiri
93. July 21, K.D. Shantha Wijethileka
94. September 28, Alton Lakshman Mendis
95. December 7, Nihal Kithsiri
96. December 18, Navinna Arachchige Manjula Prasad
97. December 18, B. Nimal
98. December 20, Amila Prasad
99. December 22, SA Akila Chaturanga
100. December 23, P.K.G. Jayawardena, Rajanganaya Gemunupura
101. December 24, M.H. Priyantha Minipura

## 2006

102. January 2, Manoharan Ragihar (son)
103. January 5, R.D. Kanishka Gayan
104. January 7, D.A. Gayan Rasika
105. January 11, Police Constable Sunethra Koswatte
106. January 28, Sunil Premathilake
107. February 8, Damith Kumara
108. February 16, D. Indika Wasantha and Kumudini Malkanthi
109. February 17, Hevage

110. February 17, M. K. Buddhika
111. February 23, Kariyawasam Peradorapage Tsuitha Ejith
112. March 2, P.W. Tharanga Kumara
113. March 11, V.M. Duminda Jayawardena
114. March 12, Sameera Harischandra
115. March 12, E. Gnanadasa
116. March 17, W. Sunil and Wasanthi
117. March 25, Kithsiri Dhanawardena
118. March 31, Wijewardena
119. April 7, Indika Kulasekara
120. April 8, Dharmasiri
121. April 21, Freddy Gamage
122. April 24, Samantha Perera
123. April 29, Thilakarathana
124. May 3, Chamara family
125. May 14, Dharsari
126. May 12, name withheld
127. May 24, L Sarath Vijitha
128. May 27, D. Chamara Lanka
129. May 31, P Kusumalatha
130. June 6, Anton Ignatious Perera and Richard Patrick Rosary
131. June 9, Illukumbura Mudiyansele Mudiyanse
132. June 11, Mallikage Ariyadasa
133. June 25, Jenny Violet
134. June 28, Saman Rohana Manawadu
135. June 28, Amitha Deepthi Kumara
136. June 28, M.S.F. Perera
137. July 2, Dhanuka Tisara
138. July 9, Gune Ayyas
139. July 11, Hevamarambage Premalal
140. August 2, D. Dilan Samaranayake
141. August 13, Sinnappan Abraham Kiragory
142. August 23, I A. Nishantha Chandrasiri
143. August 24, Suddage Sirisena
144. August 24, Wasantha Kumara
145. September 13, P. Gnanasiri
146. September 21, Lalith Rajapakse
147. September 26, Duwandage Pushpakumara
148. October 2, Rasuraja
149. October 3, Chamara Nuwansiri
150. October 7, Padmini Sriyalatha

151. October 19, Baskar Sothi Balanandam Ponwattar Regis
152. P.P. Dinesh Gihan
152. October 21, Muralitharan Rajah
153. October 27, Pasquelge Don Dudley Mervyn
154. October 29, Nishantha Perera
155. November 8, Weligoda Ananda
156. November 26, Latdu Karatunga and Ladu Daramatunga
157. November 29, R.H. Dhanapala

## 2007

158. January 8, Marisan Annachcheli
159. January 13, Rev. Nallathamby Gnanaseelan
160. January 15, Wijeshinghe
161. January 17, Kapu Kankanamalage Mahesh Maduranga
162. January 27, W.S. Anthony Raja, W.S. Jude Sampath, W.S. Sumith Thamel, Anthony Tyrone Fernando, Sivanaiah Ranjith and W.S. Luckshman Newton Fernando
163. February 3, A. Dushmantha Silva
164. February 12, A.A. Priyantha Kumara
165. February 26, A.A.D.I A. Attanayake
166. 119. March 1, Randeniyage Yureshani Damayanthi
167. March 3, Daluwattalage Gamini Weerasinghe
168. March 4, Jayasingh Archchilage Somadasa
169. March 11, Lakam Mohottilage Anthony Newton Appuhamy
170. March 14, Rajapaksage Don Saman Nilantha
171. March 15, Kuruthanthrige Lakshman Gunasekera
172. March 16, Dammika
173. March 24, Senaka Ekanayake
174. March 24, Wannakuwatta Waduge Tharaka Aruna Shantha Kumara, Dombagaha Pathirage Jayalath Kumara and Baminiyahandige Wasantha Barathi Peris
175. March 25, Ajith Shantha Fernando
176. March 26, B. Sumith Priyantha Fernando
177. March 26, Maha Hewage Sumith Perera
178. April 6, Lal Fernando
179. April 17, Alagappen Prabu
180. May 10, S. Kinsley de Silva
181. May 18, B.G. Premasiri
182. May 20, Gnanapragasam Benedict Rosery
183. May 22, Ruwantha Chrishantha Dias

184. May 22, Thalajahiya Gamaralalage Chaminda Weerawardene
185. May 28, M.A.K. Wickramasinghe
186. June 21, Jayarathne
187. June 27, U.A. Chandrasena
188. July, T. Jayantha
189. July 4, Patikiri Arachchige Nihal Sarathchandra
190. July 7, Balasuntharam Thavamani
191. July 21, Thadallage Chamil Weerasena
192. August 2, K.W. Upali
193. August 9, Meera Mohideen Gafar
194. August 12, Periyasami Niroschan
195. August 29, Vimalawathi and Chandrasiri
196. September, Chandrasiri
197. September 8, S. Siripala
198. September 16, Manoj Kumara
199. September 19, P.A. Kumara Perera
200. September 27, Priyantha Fernando
201. October 9, M.A. Prasantha Ruwan Kumara
202. October 14, M.I. Fausil Ameen
203. October 26, Manjula Loganayagam, T.K. Rajkumar
204. October 31, Dorairaj Jayachandran
205. November 12, S.K.A.S. Nishanta Fernando
206. November 21, Muthukumar Ravikumar and his wife Stella Rani
207. November 24, Ven. Dodangoda Ariyadamma
208. December 16, Ajith Kumara
209. December 17, name withheld
210. December 20, Michael Edward UPDATE
211. December 29, Sugath Rohana

## 2008

212. January 5, Mohamad Maharooof Mohamad Pasmii
213. January 7, Poddala Jayantha
214. January 15, Shiraz Buhran
215. January 18, Hiriyage Gratian Lasantha Prasantha Perera
216. January 20, Umesh Chaturanga
217. February 3, Thanuja Lakshmi
218. February 6, Joseph Arul Fernando
219. February 7, Delwala Nakathige Keerthi Padmakumara



220. February 8, Uduwana Athukoralage Don Lal Lasantha
221. February 28, Dodampe Gamage Asantha Aravinda
222. February 28, Pitchchai Thambi Marikar Faiz
223. March 6, M.L. Basil Perera
224. March 7, Uspatabandige Buddhi Ivantha Gunasekara
225. March 9, name withheld
226. March 11, Shanthigara Suresh Kumar
227. March 20, Peer Adumai Mohamed Rafeek
228. March 26, Muthuwahennadi Roshan Koitex
229. March 28, Nuwan Chamara
230. March 30 2008, Bolonnage Dinusha Udara Bolonna
231. April 4, Sureen Kinson
232. April 17, Nanda Kumar and Ramesh
233. April 18, Rengasami Chithrakumar
234. April 28, Janaka Pradeep Kumara
235. May 1, Kathiravelu Sathyawan
236. May 1, Wengappuli Arratchige Milan Chanaka
237. May 2, Malik Roshan Wijayaratne
238. May 5, Kandagoda Rajapaksa Pathirnalage Nilantha Kumara and Chathuranga
239. May 7, Ramiah Ruba Sandran
240. May 13, Maddumage Dharmadasa
241. May 17, Uswatte Liyanage Stanley Senaviratna
242. May 30, Solomons Caspas Poul
243. June 23, Sugath Nishantha Fernando (assassinated 20<sup>th</sup> September 2008)
244. June 27, Galapitahene gedara Nandani Kumari
245. July 3, Seynool Arbdeen Seynool Aswar
246. July 5, Sarath Kumara Naitos
247. July 7, D.N. Nimal and Ranjith
248. July 8 and September 15, Velu Dena Dayalan, Velummailum Kamalthasan
249. July 11, B. Sumedha
250. July 23, Ravindra Indrasiri Wanniarachchi
251. August 18, Sarath Kumara
252. August 21, Malayappan Kali Dasan
253. August 21, Prasantha Pradeep Kumara Francis
254. August 31, Buddhika Mahesh
255. September 1, Madushani Subasinghe
256. October 1, Erandaka Bulathsinghela
257. October 8, Anil Chandana Kumara
258. October 20, Udayarathne
259. November 9, Wijesekarage Don Senarath Appuhamy
260. November 10, Kurugamage Don Predeep

261. November 16, name withheld  
262. December 18, Adikari Arachchilage Ruwan Sampath Wickramasinghe

**2009**

263. January 9, Govindaraj  
264. February 2, Abesinhage Don Janaka  
265. February 17, Anuradha Buddika  
266. March 1, Sunil Shantha  
267. March 2, Loku Naramgodage Shantha  
268. March 5, Ramanayakage Nishantha Perera  
269. March 28, Tharidu Nishan  
270. April 12, Thalagala Pahalage Solomon  
271. April, Lectchchaman Punyamoorathi  
272. May 7, Upul Palitha Mawalag  
273. May 20, Chaminda Sampath Kumara Wickramapathirana  
274. July 14, Rankoth Pedige  
275. July 29, Tammage Sampath Perera  
276. September, UPDATE Suresh Kumar Dias  
277. September 16, Christopher Pakiam  
278. August 2, Mudugamuwa Manage Piyal  
279. August 28, Tennakoon Mudiyansele Wijeratne  
280. October 26, Wannu Athapaththu Mudiyansele Nilantha Saman Kumara  
281. November 19, Joseph Fonifelius

**2010**

282. February 14, Warnakulasuriya Asanka Peiris  
283. April 7, UPDATE Teenage torture victim wins fundamental rights case  
284. April 19, Gayan Thusitha Kumar  
285. April 25, Balapu Waduge Lakshman Mendis  
286. April 26, Henayaka Arachchilage Parackrama Karunaratne  
287. May 11, Undiya Ralalage Premaratne  
288. May 26, Ganegoda Sinhage Haritha Lakmal  
289. June, Anthoni Ayiya Devaraj  
290. June 1, Jayasuriyage Samira Desapriya

291. June 4, Koronchilage Anandalal Aruna Rohana
292. June 17, Alhaj Farook Mohomad Ikram
293. June 29, Seelawansa Hitihamilage Don Samantha Priyalal
294. June 30, UPDATE Upul Palitha Mawalag
295. August 9, Hewawasam Sarukkalige Rathnasiri Fernando
296. August 10, Manivel Saundrarasau
297. August 13, Amarasinghe Arachchige Simon Amarasinghe
298. August 14, W.A. Lasantha Pradeep Wijerathna
299. August 15, Balapuwaduge Suresh Sumith Kumar Mendis
300. August 23, Jesu Andrew
301. August 25, Jayasekara Arachchige Roshan Jayasekara

## 2011

302. January 5, Dasanayaka Mudiyansele Thushara Jayarathna
303. January 19, Devarathnam Yogendra
304. January 24, Mallikarachchige Don Indika Shashiranga Senevirathna
305. January 25, Samarasinage Sudath Pushpakumara
306. January 26, Lindamulage Suneth Rupersinghe Silva
307. January 27, Selema Lebbe Mohammed Amir Sultan
308. January 28, Anthony Ayya Devaraj
309. January 31, Sunil Shantha
310. February 1, Karasinghe Arachchilage Kumarasinghe Appuhami
311. February 2, P G W G Jayarathna
312. February 7, Waharagedara Ranjith Sumangala
313. February 9, Amuwaththe Mudiyansele Lahiru Ruwan Chamara
314. February 11, Kapila Sampath Jasingha
315. February 11, A daughter of Mohammad Mulafar and Ms. Siththi Farina
316. February 15, Herath Mudiyansele Suranji Sampath Kumara
317. February 16, A daughter of Kandiah Mahendra and Manori Chamini Perera
318. February 18, D G Suthisa Kumara Jayalath and W V Mahendra Uppalawanna
319. February 21, Suranjiv Chrishantha Fernando
320. February 22, A daughter of Yamange Hemalatha
321. February 23, Lahiru Madushan Suriarachchi
322. February 24, Egodawattege Ruwan Niroshana
323. March 8, Alahendra Acharige Dinesh Priyankara

## Glossary of terms

AG Attorney General  
AHRC Asian Human Rights Commission  
ALRC Asian Legal Resource Centre  
ASP Assistant Superintendent of Police  
CID Criminal Investigation Department  
DIG Deputy Inspector General (of Police)  
DMO District Medical Officer  
HQI Head Quarter Inspector  
HRC Human Rights Commission of Sri Lanka  
IGP Inspector General of Police  
IP Inspector of Police  
JMO Judicial Medical Officer  
NPC National Police Commission  
OIC Officer in Charge  
PC Police Constable  
RPC Reserve Police Constable  
Sgt Sergeant  
SI Sub Inspector  
SIU Special Investigation Unit (of Police)  
SSP Senior Superintendent of Police

## 1998

### 1. V.K. Swarnarehka: Murdered by fellow police officers

V.K. Swarnarehka was a healthy 30-year-old police officer at Vavuniya Police station. She left home on the 8<sup>th</sup> of March 1993 to report to work and by noon the next day her family was called to come and collect her body, with a message that she committed suicide. The family was not called to be present at the post-mortem inquiry or even to identify the body. All that was done by the police themselves by the time body was handed over to the family. The investigating doctor identified the cause of death as a cardio-respiratory failure following ingestion of insecticide. He did not send any samples for toxicological analysis. The family was suspicious and went to the nearby magistrate's court to call for exhumation of the body. The court debated the issue for one year before a new magistrate arrived and made an order for exhumation. A second doctor issued a report declaring a lack of evidence of insecticide and ordering that parts of the body be sent for toxicological analysis. He deferred his final findings till he discussed them with the doctor who made the first inquiry.

The government analyst's department reported negatively on the presence of any poisonous element. The doctor however, after talking to the doctor who did the first inquiry, opined that the first report was correct. All three medical reports were sent to the medical college for expert opinion. A professor of forensic science gave his view that the first doctor should have sent the body parts for toxicological analysis and that there was no evidence of death by taking insecticide. On the available evidence it was not possible to determine whether death was due to suicide, homicide or just for natural reasons.

This debate on medical reports has gone on for nine years now. It is obvious that this healthy young woman's death was never suspected to be due to natural reasons. If suicide is excluded, the other possibility is homicide. There are many reasons that have made the family believe that this is a case of homicide. The last thing known about the deceased person's whereabouts was a telephone call from the local Police station by the ASP asking Swarnarehka to come to his office immediate with a divided skirt worn by athletes. She had obeyed the orders and reported accordingly. Within two hours she was dead. Within the next two hours, the post mortem, embalming and everything was done without any information being given to the family. The police have not answered the questions of the family about the details of the death and were very hostile to the family. The family has heard

conflicting versions about the death from different officers. The family believes that higher-ranking police officers have made secret inquiries about the death and have hushed up the findings.

This is a case where the only persons who know about the death are the police officers of this particular station. The family believes there were over 40 officers, including women, at the station. Only through rigorous interrogation of the police officers can what really took place be found out. The suicide story, which has been discounted, casts suspicion that there has been police complicity. The case should have been referred for inquiry to the CID. However, for over nine years no inquiry had been undertaken. The family has written to every one, including the Attorney General and the HRC. However, there had been no attempt to assure the family that justice will be done.

## **2. Michael Edward: Brutal assault**

The AHRC received testimony of severe torture from a prisoner, Michael Edward (Prison No. 2143) of Kandy, being held at Bogambara Prison and previously at Kalutara Prison. The Talathu-oya Police took him as a terrorist suspect on 21 May 1998. He was kept in police custody until he was produced before the magistrate on the 9th October 1998. On an application by his wife there is a court case pending in High Courts, Kandy (Case no: 1294/99).

The torture he has received has been extremely brutal, including beatings and genital torture. We include part of his statement here below. The AHRC's representative in Sri Lanka has verified the accuracy of Edward's statement regarding his torture. More than 6 months have passed since this statement, and still there has been no action -- no investigation, no redress and still no date set for his court case. The only development is that Edward's health condition has worsened, especially his hearing, sight and use of limbs. Edward's wife and six children are also suffering hardship through the lack of income and the fear of the threats.

Statement from Edward on 13 September 1999 (Prison No. 2143; Case No.1294/99):

“01. I was blindfolded and beaten like an animal. The blows dislodged one of my teeth.

02. They placed some books on my head and hit them with a pole. Then they hit my head on the wall. As a result of this torture I suffer severe headaches, weakness in my eyes. My eyes tear frequently and at times my sight in quite blurred.

03. Once they squeezed my sex organs and hammered me. As a consequence of this I have severe pain when I urinate, and I also pass blood with my urine.

04. Once they tied me to a bench and beat my feet with a pole. Then they put me flat on my face and hit me with the pole and thus I suffer severe pain in my feet.

05. Another time they sent in a wire through my anus and drew it out. As a result I suffer severe pain when excreting; also I bleed at such times.

06. They press petrol rags onto my face then I faint.

07. They threatened to sexually abuse my wife and eldest daughter.”

### **3. Weerasinghe Arrachige Janaka Chaminda: Screams of pain overheard**

On 6 August 1998 at 3.15 pm, a man named Weerasinghe Arrachige Janaka Chaminda was taken to Ja-ela Police station. He was severely beaten up by Inspector Weerasinghe. He was beaten several times during the day and night.

A person who went to see him, one Milroy, was also pulled inside the policestation and beaten up by Police Constable Wicrema. Several persons heard both screaming in pain.

No one was allowed to see the victim. The mother of Chaminda tried to visit him but she was not allowed.

The reason for arrest was not immediately known. However, it was believed that the police were acting under the influence of someone.

### **4. Anura Sampath: Post-mortem reveals 24 internal injuries**

Anura Sampath was taken to the policestation at Moratuwa on 30 December 1998, by some police officers who said that he was needed for the taking of a statement. He was taken from his sister's house where he was helping with some construction work. As he did not return till late, his brother visited him at the Moratuwa Police station at night and he saw Anura Sampath.

Anura Sampath told his brother that he was severely beaten up by some police officers and that they might kill him. On the basis of this, family members sought intervention of many persons to get Anura Sampath released from the Police station. Next day when the family members visited the Police station, Anura Sampath was not found there. A police officer told them that he had been taken away to take a statement.

The family was later told by the OIC of the Police station that Anura Sampath was dead. The police provided misleading information about the whereabouts of Sampath's body. Later, the family found the body of Anura Sampath at Kalubovilla Hospital. Due to the family's protest the body was produced before a doctor at the Colombo General Hospital. At the post-mortem inquiry, the finding was that the death was due to assault. The inquiry revealed that there were 24 internal injuries.

News of the death at Police station provoked protests in Moratuwa town. During the funeral procession people carried banners condemning the police. Teargas was spread during the funeral to

prevent the people marching to the Police station carrying the corpse of Anura Sampath. Some Sinhala newspapers in Sri Lanka reported this incident.

Subsequently the police tried to create the impression that the death was caused due the suspect trying to jump out of the police jeep. No satisfactory inquiry had been conducted about this death.

## 1999

### **5. A.H. Ariyadasa, A.H. Sudath: Weligama Police implicated in the torture and killing of a father and son (1999 then 2002)**

The Asian Human Rights Commission (AHRC) has come to learn of a case involving the alleged torture and extra-judicial killing of a father and son by the Weligama Police. Despite years having now passed since their suspicious deaths, little action has been taken by the authorities to properly investigate this matter, and consequently no person has been held accountable for the crimes committed against the two victims.

A.H. Ariyadasa was a fisherman by occupation. According to his wife, Kamala Mallika in 1999 there were groups of people in their area who went about demanding protection money from businessmen and other traders. She said that if these demands were not met the 'local Mafia' would create trouble for those who refused.

Apparently this local Mafia had also demanded payment from Mr. Ariyadasa and his sons, but they had refused to pay up and instead chased the group members away. In October 1999 A.H. Ariyadasa was arrested by the Weligama police and taken to the Police station where, it is alleged, he was brutally tortured and then killed. Later, the police allegedly colluded with the medical professional at the Matara hospital to conceal the truth about the victim's death.

Ms. Mallika believes that her husband's unwillingness and failure to pay the local Mafia the money they were demanding was the main reason for her husband's arrest, torture and eventual killing by the Weligama police (who she believes were in direct collusion with the mafia and thus resented her husband's refusal to 'pay-up').

Suspecting foul play in her husband's death, Ms. Mallika was persistent in petitioning the magistrate's court in Matara to examine the case. Thereafter the court ordered the exhumation of the body and requested for it to be sent for autopsy at the Karapitiya Hospital. Upon examination, it was concluded that the death was due to assault by blunt weapons.



Currently Ms. Mallika is still unaware of the status of the case before the Matara Magistrate's Court and the police are refusing to afford her any details regarding the matter.

Then, on 24 October 2002, Ms. Mallika's son, A.H. Sudath was also arrested—this time by the Wanathavillawa police. His mother was unaware of the reason for his arrest but according to her, the Wanathavillawa and Weligama police joined together to severely assault him, falsely charge and to get him remanded.

Two months after his arrest, on 7 December 2002, Sudath died in prison.

When a medical examination was conducted on his body, the Judicial Medical Officer (JMO) clearly found that assault with a blunt weapon had resulted in his death.

According to Ms. Mallika no satisfactory investigation or inquiry has been conducted into the death of either her husband or son. She also says that not only are the perpetrators freely roaming about in the area but they are constantly threatening members of her family with death or fabrication of charges if they continue to 'make trouble for the police'.

Though she has complained to the Matara branch of the Human Rights Commission, no investigation or inquiry has been held by the institution. Thus, some seven years after her husband's murder and more than three years after her son's, Ms. Maillkia is no closer to finding the truth behind their deaths or bringing justice to the perpetrators of these crimes.

#### **6. B.M.A. Dissanayake: Policeman dies from gunshot injuries**

In this case, the magistrate of the court at Vavuniya held on 22 January 2001 that, "According to the available evidence before inquest proceedings, the death of the deceased Basnayake Mudiyansele Ariyathilake Dissanayake PC 33921 attached to Vavuniya Police [Station] has been caused by gunshot injuries in suspicious circumstances". The court ordered proceedings to arrest the suspects and produce them before the court. The court criticized the poor police investigation on the death of police personnel. The court directed DIG Vanni to pay personal attention to this inquiry. The court further directed that the Registrar forward the findings to the DIG, IGP and Attorney General for special instructions. The findings were based on the following facts, summed up in the court order.

The deceased was admitted to the General Hospital, Anuradhapura, with a firearm injury on 28 October 1999, and died on November 12. The deceased made a 'dying declaration' to his father Dissanayake Mudiyansele Gunathilake, to the effect that he had been fired upon from the back. According to the post mortem examination the death was "due to firearm injuries to the abdomen". Further, the consultant surgeon recorded his findings as death due to an "entry wound, back of chest". No police investigation team visited the hospital to record his statement.

It surprised the court that police personnel had been injured and admitted to hospital with gunshot injuries without proper investigation by the Police Headquarters in Vavuniya, and their superiors. The parents and lover of the deceased made allegations against Police Headquarters in Vavuniya to indicate that “the police have not recorded the statement from his son or lover [and] did not hold investigation between the the time when incident took place and his death (15 days)”. The court accepted the allegation and instructed that the Police Headquarters should respond. Despite the magistrate’s order, no inquiry had taken place and no one had been arrested.

## 2000

### **7. Lasantha Jagath Kumara Mullakandage: Beaten to death**

Police allegedly beat Lasantha Jagath Kumara Mullakandage to death. He was a 23-year-old soldier, living in Payagala with his wife and child. Officers of the Payagala Police station arrested him on 12 June 2000, and illegally detained him for five days, during which time he was subjected to torture and abuse. He was produced before the Kaluthara Magistrate’s Court on June 17 and remanded in custody. Due to continued severe assaults, he died at Welikada Prison on June 20. The JMO who conducted the autopsy ruled that the death was due to damage caused to muscles and tissue by blunt weapons, which rendered the kidneys ineffective. The magistrate who held the inquiry into the death was of the opinion that this was a homicide. An inquiry into this death was held at the Colombo Magistrate’s Court. The police failed to even appear in court for six months, in order that an investigation may be undertaken into the case. Subsequently, the investigation was handed over to the DIG South.

The suspects are all police personnel belonging to Payagala Policestation including OIC Iddamalgoda and IP Prasanna. The police officers investigating this murder and presenting materials before court are all protecting their fellow police personnel. They have invariably presented incorrect materials before court. Evidence given by witnesses has not been recorded, while some witnesses have been threatened. The police submitted a report on this murder to the Attorney General that was full of incorrect material.

### **8. Angelina Roshana Michael: Tortured over a wristwatch**

At around 7:30pm on 3 December 2000 a group of people arrived at the house of Angelina Roshana Michael, 25-years-old, in Narahenpita by private vehicle. One of them, who was later identified as

the OIC Crimes of Narahenpita Police station IP Selvin Saleh, called for Angelina Roshana to go to the Police station.

This person did not wear any police uniform nor did he inform Roshana or her family about the reason for her arrest. Her family members protested and even asked how were they to know that Angelina was, in fact, being taken to the station. The OIC then threatened to break their teeth, and forcibly took her to the vehicle and left.

Angelina was then taken to a house where she had part-time employment washing clothes. At the house, she was told that some items in the house, including a valuable wristwatch, were missing. When she said that she knew nothing about these items, she was told to go search for and find them. She was forcibly kept in the house for about five hours. Meanwhile, members of the family who owned the house and the OIC drank liquor and enjoyed themselves.

At about 12:30am, she was brought to the Narahenpita Police station where three officers armed with a rubber hose, a wooden club and another object with wires around it assaulted her. She was laid on a table and the soles of her feet were hit. The assault continued up to around 2am. She was also forced to sign a confession. She was detained at the station on December 4 and 5, and the police often threatened to hang her up and beat her. These threats were usually made when the lady of the house where the wristwatch had allegedly gone missing visited the station.

During the day, a lawyer from the Human Rights Institute, W.R.Sanjeewa, visited the police station and asked for her to be produced in court. Dr. Nalin Swaris, an associate member of ALRC, was approached by Angelina's family and also visited the police station and talked to the OIC.

When Dr Swaris asked the OIC to respect Angelina Roshana's legal rights, the officer replied that, "The laws of the country are too weak." When asked when she would be produced in court, the OIC only cynically smiled. However, due to frequent interventions on her case by her parents, Sanjeewa, Dr. Swaris and others, she was produced before a magistrate, to whom she complained of being tortured. The magistrate ordered her to be produced before a JMO, who recorded several injuries, as follows:

1. Contusion 4 by 3" lateral and postero-lateral left shoulder area.
2. Contusion 2 by 2" back of the upper left arm close to the arm pit.
3. Contusion 3 by 1" obliquely across the back of mid-left upper arm
4. Contusion 3 by 3" lateral right shoulders area
5. Contusion 3 1/2" the mid left buttock
6. Contusion 2 1/2" diameter lower left buttock extending down to the upper left thigh

7. Contusion 3 by 1 1/2 lower right buttock

The JMO concluded that all the injuries were caused by assault with blunt objects like a rubber hose, wooden club etc., and that the age of the injuries matched the date and time that Angelina Roshana claimed to have been assaulted. Witnesses also submitted affidavits on her behalf. IP Saleh denied that he had tortured her or otherwise violated her rights.

A magistrate in Colombo subsequently dismissed the case of theft filed against her by the Narahenpita Police station. Angelina Roshana submitted a fundamental rights application to the Supreme Court with the assistance of the AHRC, and was represented in court by W.R.Sanjeewa. The OIC invoked the names of powerful persons to support his case and further stated that the daughter of one of the president's counsels had initiated the complaint against Angelina. Vivika Siriwardene de Silva, a state counsel, also appeared for the defence when the fundamental rights application first came before the Supreme Court.

On an earlier occasion the Supreme Court had been informed by the alleged perpetrator that the Attorney General's Department would not assist the defence in this case as the matter was one of torture, and he produced a letter to that effect. It is not clear as to how this earlier decision was reversed.

On 2 August 2002 the Supreme Court vindicated Angelina Roshana by handing down a judgement in her favour. The court held that the police had violated her rights guaranteed under articles 11 and 13(1) and (2) of the constitution. In the judgement delivered by Justice Mark Fernando the court awarded her compensation of Rs.100,000.

The court's judgement included the following remarks:

“The Petitioner [Angelina Roshana] seeks relief from this Court for the alleged infringement of her fundamental rights under Articles 11, 13(1) and 13(2), by reason of her arrest by the 1st Respondent the Officer-in- Charge (Crimes) of the Narahenpita Police [IP Selvin Saleh] at about 8.00 p.m. on 3.12.2000; her detention in Police custody thereafter until she was produced before a magistrate shortly before noon on 5.12.2000; and the cruel inhuman and degrading treatment to which she was subjected whilst in Police custody.

The principal issue is whether the Petitioner was arrested at 5.10 p.m. on the 4th [or 8p.m. on the 3rd, as attested to by the Petitioner]. If so there was by then a complaint of theft against her, which would probably have given rise to a reasonable suspicion justifying arrest. The Petitioner did not allege any assault after 5.10 p.m., and she was produced in Court within 24 hours. If she had been arrested at that time this application has to be dismissed.

There are several reasons why the 1st Respondent's version is unacceptable, while the Petitioner's is credible.

The Petitioner's position that the Complainant came with two Police officers in civils on the 3rd night is amply corroborated by her neighbour and her mother, and is inherently probable. It is to some extent confirmed by the Complainant's statement that she 'got down' the Petitioner to her residence. It is of course, possible that the Complainant 'got her down' in some other way - by sending a message, or sending some one else - but there is no evidence of any such thing. Her only other employee was away on leave. The Petitioner was hardly likely to have come alone and gone back alone, at that time of the night.

The supporting affidavits establish that at several subsequent points of time the Petitioner was observed to be in police custody - at the Complainant's residence and at the police station. As against those, the 1st Respondent has failed to submit affidavits from the Complainant or any member of her family, or from Tissera or any other police officer.

Finally, the 1st Respondent's affidavit is not worthy of credit. He averred that he set out to investigate with two officers, although his 'Out' entry refers only to one. He gave the time of arrest as 5.10 hours which his Counsel says was a mistake for 5.10 p.m. He did not explain how he came to use a private vehicle, for over eight hours - from 10.00 am till 6.30 p.m.

Who was the owner of that vehicle, and who drove it? Why did he make it available? Were official vehicles not available? Besides, the 1st Respondent does not explain why it took him over seven hours to arrest the Petitioner. Considering that the Complainant had already delayed fifteen hours to make a complaint, it was essential that he should have acted promptly to question the suspect and to try to recover the watch.

Further, the Petitioner had averred that the 1st Respondent and a police party had searched her house at 1.30 p.m. The 1st Respondent simply denied that, and said nothing whatever about a search but his notes, purportedly written at 5.10 p.m., do refer to a search before arrest.

In an attempt to explain the delay in arresting the Petitioner, his Counsel referred to the 1st Respondent's 'In' entry which mentioned a telephone call, supposed to have been received at 11.30 am on the 4th to the effect that a suspect who was already under arrest on a charge of rape had pointed out the scene of the alleged offence, and that the 1st Respondent had gone to the scene of the alleged offence, and made his observations.

That was a matter that should have been averred in the affidavit, and it is unsafe to rely on the Police statements and notes, which are by no means the best evidence, as substantive evidence. However, in the certified copy of his notes produced by the 1st Respondent, the portion relating to the period between 11.30 am and 5.10 p.m. has been omitted. The delay has not been satisfactorily explained. It is far more likely that entries were made to cover up an illegal arrest on the 3rd. I hold that the 1st Respondent's claim that he had arrested the Petitioner on 4.12.2000 was false, and I hold that the Petitioner has established beyond reasonable doubt that the 1st Respondent arrested her at

about 8.00 p.m. on the 3rd although there was then no complaint which could have given rise to a reasonable suspicion of theft. Further, the 1st Respondent failed to make a correct entry in regard to her arrest, and subjected her to cruel, inhuman and degrading treatment. In direct consequence of his failure to make a correct entry, the Petitioner was detained for a period in excess of that permitted by law. I grant the Petitioner a declaration that her fundamental rights under Articles 11, 13(1) and 13(2) have been infringed by the 1st Respondent, and I award her compensation and costs in a sum of Rs 100,000 payable on or before 30.9.2002, of which Rs 70,000 shall be paid by the State and Rs 30,000 by the 1st Respondent personally.”

The Torture Victim’s Unit also inquired into Angelina Roshana’s complaint of torture and filed an indictment against IP Saleh and another officer. Meanwhile, IP Saleh fled the country for an unknown destination. The High Court in the criminal case also decided in favour of the victim and sentenced the accused to imprisonment.

## 2001

### **9. L.P. Maithreepala Senadira: Beaten with pipe and sticks**

L.P. Maithreepala Senadira, a resident of 155, Pansalgodella, Galamuna, was taken into custody of the Polonnaruwa police on 7 January 2001 at 3am on suspicion of selling illicit liquor. The police had gone to the house of the suspect and asked for arrack (liquor) and when they were told that there was no arrack he was blindfolded and taken to the police jeep. When the wife objected to the husband being taken by the police, she was threatened with forceful removal by Sub-Inspector Manawadu of Polonnaruwa and was asked to remain inside. The two brothers of Maithreepala Senadira were also taken into custody.

At the Polonnaruwa Police station, Maithreepala Senadira was tied to a pillar, his clothes were removed and he was beaten with a pipe and sticks by SI Manawadu. As a result of this torture his sexual organs were severely injured and the bleeding was so serious he was taken to the Polonnaruwa hospital by the torturer himself. Maithreepala Senadira’s injuries to the sexual organs required six stitches, and his back and spine showed signs of severe beatings. The SI had threatened those who knew this not to reveal the information to anyone. For this reason Maithreepala Senadira was also transferred from Polonnaruwa hospital to Peradeniya hospital.

## **10. Amarasinghe Morris Elmo De Silva: Arrested after visiting police station**

In an earlier case that the AHRC was made aware of, one Amarasinghe Morris Elmo De Silva, a naval officer, went to the police station on the morning of 9 January 2001 with his wife and her cousin, to see his wife's uncle, who was in custody. A PC Sugath started uttering filthy words to his wife and her cousin. Elmo politely told the police officer not to talk to the women like that.

Then Constable Sugath took him by the t-shirt neck and asked, "Who the hell are you to teach me how to talk?" He dragged Elmo inside the police station and slapped him twice. His wife and her sister began to cry out loudly and they were pushed aside. Elmo was put in a cell.

At 12:30pm PC Sugath and some other police officers took him out of the cell. One of them put one of his hands between the victim's legs and tightly held his neck with their other hand. Then PC Sugath, IP Suriyakumara, IP Pushapakumara and several others hit him with their hands, feet, belts and hose pipes. IP Pushapakumara ordered him to take off his clothes, after which he was tied with his t-shirt and his soles beaten with belts and hose. The police officers used offensive language about naval officers, and forced Elmo to lie face down so they could sit on his back and continue to beat him. Finally, he was forced to sign some documents, the contents of which he did not know.

On January 10 a naval legal officer and medical officer came to the station and examined Elmo de Silva. A complaint was lodged against the police officers at Ja-ela Police station itself and the ASP's office at Peliagoda. Then the victim was put into a ward at the Ja-ela Hospital. The same evening he was taken to a magistrate and four charges were brought against him. Till then he did not know that he had been charged with anything at all. The magistrate ordered a JMO to examine him and submit a report, after which he was sent to the Negombo General Hospital, where he stayed till January 16, with pains in the chest and abdomen where he had been hit. He was taken back to the magistrate on that day and bail was granted, after which he remained at the hospital for another two days. A complaint was made to the HRC.

On 20 May 2002 a fundamental rights petition was submitted to the Supreme Court against the officers who beat him, and to the OIC Ja-ela, the IGP and the Attorney General, on the grounds that his arrest and detention were illegal.

Similarly, **Uchitha Thushara Kumara**, a 33-year-old father of two, was tortured to death by police at Ja-Ela Police station on 24 March 2001. Officers from the station had arrested him just that morning, using a warrant for a minor offence. He was sent to the remand prison in Negombo on the evening of the same day. On March 26, when his family made inquiries about him, they learned that he had died and that remand authorities had informed the Ja-ela police about the death, with an instruction to inform the family. To that date, no such communication had yet been made by the police. The magistrate of the area visited the remand prison to see the body and made an order for it to be sent for examination by the JMO of Ragama Hospital. This examination was completed and the sealed report sent to court. The family found out that the medical officer's report stated that the

death was due to internal injuries, which they understood to have been caused to the victim while he was still in Ja-ela police station.

### **11. Anura Wejesiri: A corpse with two hearts and four lungs**

On 11 January 2001 Anura Wijesiri told his brother, Jagodege Ranjit Wejisiri, who visited him in custody at the Ingiriya Police station that he had been assaulted by the police the previous night and was likely to be assaulted again that night. He named the two people who assaulted him as Sgts Lal and Ranjith. Sgt Ranjith's father-in-law also visited Anura's mother and told her of the arrest of her son and that he had been assaulted. He told her to pay Rs. 10,000 to the police to have her son released. She said that she did not have the money. The next day she learned that her son had been killed in the Police station. Later the family was informed that, according to the police, Anura had hung himself inside his cell. The DMO made a report stating the cause of death as suicide.

At the coroner's inquest, the brother of the deceased said that the deceased pleaded to have him saved from the police assaults. The family obtained an order from the magistrate for a second post-mortem to be done by a JMO. During the post-mortem, the JMO found two hearts and four lungs inside the corpse. The family suspects that the body was in the hospital mortuary at the time the magistrate gave an order for the second post-mortem inquiry. In order to subvert the second post mortem, the dead body was reopened, and body parts taken from other dead bodies were put inside Anura's dead body, and his body was closed again. Over a year after Anura's death, the mystery had not been solved.

### **12. R.P.Kavinda: "Are you the dog who says he's from the army?"**

On 29 January 2001, Rajapakse Pathirage Kavinda, a disabled lance corporal, was travelling as a pillion passenger on a motorbike when he was stopped at about 11:30am by a police officer of the Padukka Police station, at Padukka Junction, for not wearing a helmet. He explained that he was rushing to get an urgent loan from a government office and that he was a disabled officer of the Sri Lankan Army. The two fell into an argument, and instead of letting him go on his way, the police officer assaulted him and then radioed his colleagues for back up while Pathirage lay on the ground. Four officers came in a jeep and assaulted him with clubs. Pathirage pleaded for the police to stop, begging that he was already disabled, but the police ignored his pleas.

R.P.Kavinda was then taken to the Padukka Police station in the jeep. At the Police station he was pulled before the OIC who in public view asked, "Are you the dog who says he is from the army? (Thoda armyeke kiyana balla?) You do not know what the police are like! (Tho danne nae policeye hati!)", and boxed him hard on his ears. Then the OIC said, "You should show respect for the police certificate that you took to get into the army!" and began to assault Pathirage. He was then



pulled inside and beaten all over his body by six police officers with clubs, fists and feet—including kicks to the lower abdomen—and also verbally assaulted.

After the beatings, the police took him to Padukka Hospital where the doctor did not even bother to examine him, but just asked his age. On January 31 he was brought before a magistrate and remanded for 14 days. On the morning of February 1 he was brought from remand prison to a doctor at MO.Base Hospital, Avissawella. The medical report found injuries to Pathirage's face, limbs and abdomen, including "both eardrums showing fresh perforations", consistent with the assault described above. As a result, Pathirage suffered impaired hearing and pain in his ears, dizzy spells, headaches and pains in the abdomen. On February 28 he was admitted to the National Hospital in Colombo, where he was kept under observation until March 14. The victim identified most of the police officers that tortured him. Despite availability of strong medical and other evidence, the Attorney General had not taken action to file charges of torture.

### **13. Wigikala Nathakumar and Sivamani Arjunan: Stripped and raped**

The rape of a 22-year-old pregnant woman, Wigikala Nathakumar, (already with one child) and 24-year-old Sivamani Arjunan, a mother of three children, were the latest in a series of brutal torture incidents at the hands of the navy and police on the island of Mannar. The two young women were arrested by about ten navy/police personnel who entered the private lodge at Uppukulam, Mannar where they were staying at 10:30pm on 19 March 2001 and took them away in a white van to the SIU, Mannar, where they were repeatedly raped and tortured by the officers. The following is a quote from Sivamani, describing part of the incident:

"Two men then pinned me down on the van's floor while another stripped me and raped me. I was screaming and pleading when a policeman put his foot on my mouth to stifle me. Inside the building they forced Wigikala, who was standing naked, to strip my underwear. I was hung upside down in a knot from a pole placed between two tables, with my hands and feet tied. Then the men in the room poked our genitals and tortured us until dawn."

The following is from a report by the Catholic Bishop of Mannar who has submitted this report to the Navy:

"Incident Report by the Catholic Bishop of Mannar, 30th March 2001:

This is a report of Navy brutalities in the island of Mannar brought to my notice in the month of March 2001. All my efforts to get the Navy to respect the basic human rights of our people, so affected by the prolonged war, are proving futile. Their atrocities are growing bad to worse daily and

I have again appealed to the Commander General of the Sri Lankan Navy for redress in the name of the civil public of Mannar.

On the 19th of March 2001, about ten Navy personnel entered a private lodge at Uppukulam, Mannar at around 10.30 at night and arrested two ladies, by name Wigikala Nathakumar 22 yrs, an expecting mother already with one child and Sivamani Arjunan 24 yrs, a mother of three children. They had been living in the refugee camps in Vavuniya and had come to Mannar on their private business. On the way the Navy personnel started to make sexual advances on these helpless females and on arrival at the Special Investigation Unit (SIU), Mannar at 11.30 night, Wigikala was taken in and along with some Navy personnel, some SIU personnel joined up in a room and forcefully stripped her naked, tied her hands and laid her on a table and sexually assaulted her in ways so inhuman and so brutal. Two of these men brutally raped her repeatedly.

In the meanwhile, Sivamani who was kept in the vehicle used by the Navy (a white van) had been stripped naked by the Navy and sexually molested by them and one of them blindfolded her with his socks. The driver of the vehicle was holding both her hands behind her and one of the Navy personnel forcefully raped her. After a while Sivamani was taken with her dress on to the above room and was forcibly stripped naked again and in a brutal way sexually assaulted by all present in the room while rest of the Navy personnel were peeping into this sex-torture room through the openings on the walls. Their cries could only be heard by the detainee at the Special Investigation Unit (SIU). When they, in tears, related their trauma to me on my visit to them in the company of a nun in the prison lock-up in Mannar on the 27th inst., they told me that they will identify most of these criminals and they mentioned frequently the names of one Raja (a Tamil speaking one) and of one Wimal of the SIU who were mercilessly extra brutal to them. They also said that the person whom they came to know as the OIC of the SIU was also taking part in this brutality.

These victims were then threatened with further torture and were forced to sign a statement to say that they were from the LTTE. Three days later they were taken to the District Medical Officer (DMO), Mannar. These victims were told by the SIU that they will be killed if they revealed anything to the DMO. The helpless victims told the DMO, out of fear being in the presence of the SIU, that they had no complaints to make and they were briskly taken away by the SIU. This is how the medical examination of these poor victims was made to end up. The victims were taken before the Mannar Magistrate by the SIU only on the 27th inst. at 6.30 pm. On my appeal to the Magistrate and to the DPDHS, Mannar in the name of the public, a fresh medical examination of these two unfortunate victims had been undertaken by the DMO, Mannar on 30.03.2001.”

[The Bishop goes on to describe the 13th of March torture of fishermen by the Navy at Thalaimannar; the strangulation of Mr. Kandaiah Uthayakumar of Chavakadu, Mannar aged 42, father of seven children; and forced collection of fish from the meagre catches of Mannar fishermen.]

#### **14. Uchitha Thussara Kumaea: Tortured to death**

Uchitha Thussara Kumaea, 33 years old, married and the father of two children was tortured to death at Ja-ela Police station on 24 March 2001. Kumaea was arrested on that morning, under a warrant for a minor offence. He was sent to the remand prison in Negambo on the evening of the same day.

On the 26th, when his family made inquiries about him, they learned that he had died and that remand authorities had informed Ja-ela police about the death, with an instruction to inform the family. The police did not make any such communication.

The magistrate visited the remand prison to see the body and made an order for it to be sent for examination by the Judicial Medical Officer of the Ragama Hospital. This examination has been completed and the sealed report has been sent to court. The family, on making inquiries, found that the medical officer's report stated that the death was due to internal injuries. The family is of the view that the injuries were caused at the police station before the prisoner was handed over to remand custody.

#### **15. Ajith Nawaratne: Five days to recover from injuries**

Around 12:30pm on 2 May 2001, Ajith Nawaratne Bandara was taken into custody of Keselwatte police personnel, and subsequently assaulted by IP Prasanna Silva, Sgt Palitha Perera, security assistant Sunil, and jeep driver Upasiri, among others. Subsequently, the assailants—except for the OIC— took Ajith to the Panadura Hospital DMO's official residence, but the doctor did not examine him. The DMO simply gave the police a form, which was filled out on the boot of the car, and then handed back to the DMO.

Ajith was then taken to a house at Wellabeda, Panadura, and left in the company of the assistant outside, while the other two went inside the house and came out with a document. That house turned out to be the bungalow of the local magistrate. The magistrate did not examine Ajith or question him. Later he was taken to the remand cells. On May 4 he was presented before the court on charges of possessing heroin, and was bailed out. He entered Kalubowila Hospital on the same day, and was there for five days recuperating from his injuries. Complaints made to the OIC Panadura and to the HRC to take action in this case were unfruitful.

#### **16. Ranjini Rupika Hewage: Assaulted while pregnant**

Ranjini Rupika Hewage was tortured on 11 September 2001 by IP Samarasinghe of Mathugama Police station. The police came to her home looking for her husband and, when she replied that he was not at home, they hit her with wooden poles and kicked her in the belly. Though she cried out that she was pregnant, the assaults continued. Then she was taken into a jeep where there were

others. She was then taken in the jeep for about two hours, after which she was kept at the Police station. She began to bleed at about 9:30pm and complained to the female warden. Nothing was done to help her.

On September 15 she was handed over to her mother and mother in law. She was instructed to come to the Mathugama Magistrate's Court on September 21. Her family took her to the Pimbura District Hospital. She was kept at the hospital for three days, to stop the bleeding. She was advised by the doctor not to get down from bed and to take complete rest. Thus, she could not go to the court on September 21 as instructed. She started bleeding again on September 23, and was again taken to the same hospital from where she was immediately dispatched to Kaluthara General Hospital (Nagoda) by ambulance. As it was not possible to stop the bleeding of the womb, the womb was washed and she lost the child. She was three months pregnant at the time.

### **17. Namal Fernando: Victim of rajakariya**

On 6 October 2001 at about 8pm, three police officers and some others in uniform came to the house of Namal Fernando, 37, a full time social worker and father of three from Pitipana Duwa, Negombo. The officers arrived in a white van. Inside the van was Sunanda Appuhamy, who identified Namal. The police took Namal, saying it was their rajakariya (state duty) to do so. The police gave neither Namal nor his family any reason for his arrest.

Namal's wife and brother were also put into the van and they were driven to the house of Herman Sarath Fernando, a friend of Namal, at Wennupuwa. As Sarath Fernando was not at home the police waited for about three hours. At this stage, attorney Chaminda Silva arrived and took down the numbers of all police officers. The OIC was Mathew of the Mundalama Police.

Namal was put into another police van and taken to Puttlam. At about 12:45am the van stopped at Madampe and the police drank liquor inside the van. At this stage someone in civilian dress hit Namal in the face three times with his fist, causing him to shout in pain. Then the van was driven to Mundalama Police station, about 70km away from Negombo, where one police officer used his fists and feet to assault Namal and then put him inside a police cell.

A Catholic priest, Gerald Jayawardene, came to the police station with a group of others and inquired about the reason for Namal's arrest. They were told by the police officer who had assaulted Namal that Namal had threatened him by putting a pistol against his head. Namal was put back inside the cell and kept there for another half an hour. Then the OIC and four other officers got into a jeep and took Namal to Wennupuwa. They stopped the jeep near Sarath Fernando's house and took Namal out towards the house and assaulted him. Then Namal was pressed to the ground by two police officers.

They put their feet on both sides of Namal's shoulders while another officer pointed a gun at him. Another officer shouted, "Yakko (you devil)! Unload that gun!" The officer holding the gun said that if the gun fired he would say he had shot because the prisoner had tried to escape.

Again they put Namal back into police jeep and took him to the Green Villa Guesthouse at Haldaduwana. The officer in charge got out of the jeep there and the other police officers took Namal to another house and hit his chest and knees with the butt of a T-56 firearm. Due to severe pain Namal involuntarily evacuated his bowels. Thereafter he was taken to the office of the SSP Chilaw and on the October 7 was taken back to Mundalama Police station.

Later Sarath Fernando was also brought to the station and a Catholic nun, Sister Benedict, visited Namal there also. After that the OIC showed a statement to Namal and Sarath, which they signed in fear, though the content was not read to them.

At 2:30pm Namal was taken to the hospital at Mundalama and a doctor examined him. At 3:30pm a police officer took statements from Namal and Sarath and told them that they had been taken into custody regarding a robbery that had taken place at Marrinawatte. Only at that stage was Namal informed of the charges. At 8:30pm, Namal was produced before a magistrate and was remanded in custody. On the next day, however, he was released without charge. It appears that his arrest was a case of mistaken identity. Namal was sent to Ragama Hospital for treatment.

### **18. K.A. Samarasinghe: Physical and mental incapacitation**

Kodithuwakku Arachchige Samarasinghe was allegedly tortured throughout the day of 11 November 2001 at the Baduraliya Police station, Kaluthara. He was kept in the station till November 14. On the night of 11 November he was taken out of his cell and—hands cuffed behind his back—beaten with wooden sticks, which caused injuries to his buttocks, thighs, feet and knees and dislocated his left shoulder. The following morning he was again taken from the cell, slapped on the head and ears, beaten behind the knees and on the buttocks with broomsticks. Police also forced illicit liquor into him by pouring it down his nostrils. As a result he lost consciousness. He was then taken to the mental hospital in Mulleriyawa. Due to the wounds and his mother's representation that he had been tortured, the mental hospital refused to admit him. He was then taken to the Kaluthara General Hospital (Nagoda), and was admitted.

He regained consciousness on November 16, and was hospitalised till November 22. However, the wounds were not cured and he took ayurvedic (homeopathic) treatment to address persistent problems.

On December 3 a human rights group based in Panadura, Janasansadaya, took K.A Samarasinghe to the Human Rights Commission and through the Commission produced him before a JMO in Colombo. The JMO noted the presence of scars on his left cheek, back, right arm and forearm,

wrists, right thigh, lower right leg, knees and right foot, and swelling of the left foot with “restriction of movements of ankle and the toes”; x-rays revealed a fracture in his left foot.

The JMO found that the scars were consistent with beating and with “struggling on a rough surface, rough manhandling, and assaulting with rough blunt weapons”, handcuffing, falls and prolonged kneeling, such that “[a]ging of the scars and fracture are consistent with the history given by the patient.” After examination the JMO referred him to the Orthopedic Clinic at Colombo General Hospital and from there he was referred back to the Kaluthara General Hospital. He was again admitted to the hospital from December 4 - 10.

Complaints have been filed at the HRC. As result of torture he has lost the capacity to work as a carpenter, his former occupation. K.A Samarasinghe has named the OIC Baduraliya and SI Dammika as the persons who tortured him. No steps have been taken by the Attorney General’s department to file criminal charges against the perpetrators.

#### **19. Sathasivam R.: “No female in this universe could bear it”**

Four officers from Methigiriya Police station came for 23-year old Sathasivam Rathykala while she was on duty as a casual attendant at Pollonaruwa General Hospital on 24 November 2001. They asked her to come and make a statement and took her to their jeep. Once in the jeep they began slapping and kicking her and abusing her with filthy language. Once at the police station they handed her over to CID personnel of Polonaruwa police station. Sathasivam describes what happened next as follows:

“Twelve CID personnel took me into a dark room where I was alone and there weren’t any females, either police or civilians. In the room they assaulted me, hit me with clubs and ropes, and trampled me all over my body with boots. They removed all my clothes except my panties and brassiere. I begged them to free me and give my clothes back, and I also told them that I was totally innocent. Then they removed my remaining clothes, and I was completely nude. They were all under the influence of liquor, and the whole room smelt of it. Then they started burning with cigarette butts all over my body and blew the smoke in my face.

After doing all this unbearable torture the 12 of them raped me one after another. When I started groaning in unbearable pain and I was able to feel that I was profusely bleeding and my body was swollen, one of them gave me a glass of milk tea. Feeling so thirsty, I took the glass of tea, but no sooner had I drank it than I was feeling giddy and the whole room was turning. Then I fell unconscious. When I came to, I found myself on a bed in a different room, all alone and completely nude. A few minutes later the same CID personnel came and mixed chilli powder with water and poured it into my eyes. When I started shouting in agony they forced rags into my mouth. Then they

threatened to kill me. They wanted me to admit that I belonged to the LTTE (Liberation Tigers of Tamil Eelam) as a cadre, and that I was to be used by them to throw a bomb at Minister Maithripala. Then they recorded my statement in Sinhala.

As I couldn't bear the agony and unbearable pain from the severe torture, and also fearing further torture, I was compelled to admit to all they wanted of me according to their version, which consisted of things that I had never even dreamt. They wrote all what they wanted and never read the statement recorded by them to me, neither in Tamil or Sinhala, and then forced me to sign it. Out of fear and the threat of further torture I signed against my will.

At about 10pm on this day, after taking down my statement, the 12 of them came and raped me over and over again. They were drunk and I was completely nude, sleeping all alone in that room. The next day, November 24, they blindfolded me, tied my hands, and took me in a jeep to my village. The 12 CID personnel who caused the most damage to me came in the same jeep to my village. Reaching my house they scolded me in unbearable filthy language, and wanted me to show to them where the LTTE cadres were living. When I begged and told them that I knew absolutely nothing about the LTTE they brought me back to the police station.

On November 25 they handed me over to the Kaduruwela police. The Kaduruwela police humiliated me more than I could bear by asking irrelevant questions while I was very badly hurt mentally and physically. No female in this universe could bear such questions and remarks as those that were made by them.

They continued accusing me of being LTTE and of hiding the facts. I was kept in solitary confinement there for one month. I almost went mad and I even wanted to put an end to my life. But I thought that I must live to tell of all these atrocities to the authorities concerned so that other women in Sri Lanka would not have to bear similar acts. Although the Kaduruwela police knew I was innocent, they didn't want me to expose them so they sent me to the Magistrate's Court at Polonaruwa on 14 March 2002, and from there I was taken to the Anuradhapura Prison. Out of the 12 CID personnel who tortured and raped me, four accompanied me to the prison. On the way they told me not to divulge the incident, and threatened to kill me if I did."

Sathasivam was later transferred to Welikada remand prison.

Meanwhile, the police fabricated and submitted three cases against her in the higher courts. She did not undergo a proper medical examination until after one was ordered by a High Court judge on 30 August 2002, at which time she told the JMO and other medical staff all the details of what had happened to her at the police station. Sathasivam was subsequently released on bail and on 20 November 2002 made a complaint to the HRC. Since then, she has experienced continual harassment by the police.

On 8 February 2003 she made another complaint to the HRC about an event that had happened the day before, when two men on a motorcycle, one of whom was among the 12 perpetrators, stopped next to her and her mother as they were walking along the road. The officer told Sathasivam to

come to the CID office and forced her to accept 20 rupees for the fare. He told her that if she didn't come they would come and arrest her. The charges against Sathasivam were pending in the high court.

## 2002

### **20. Bandula Rajapakse, R.P.Sampath Rasika Kumara, Ranaweera & Chaminda Dissanayake: Company scapegoats**

In February 2002 four employees of the North Pole Lanka (Pvt) Ltd were taken into custody at the Ja-Ela Police station over the loss of 46 rolls of cloth from the company stores. They were Bandula Rajapakse (forklift operator), R.P.Sampath Rasika Kumara (officer in charge of the stores), Ranaweera (security guard), and Chaminda Dissanayake (an executive officer). After several days in detention the four persons all repeatedly denied any involvement in the theft, which trade unionists believe is a case of the management trying to shift the blame onto the workers rather than accepting responsibility personally.

Thereafter, on February 19 & 20 the four men were savagely assaulted, allegedly at the instigation of OIC Crimes IP Suriyakumara, by two police officers not yet identified. The policemen attacked the three suspects using rubber hose and PVC pipes on their backsides, for 15 minutes. Before the attack the suspects were ordered to keep their hands on the wall; when Rasika turned the other way he got blows on the knees and fingers as well. Ranaweera got blows only from the PVC.pipe. Chaminda was spared much of the assault, but was kicked by a policeman.

Hearing of the violence, about a thousand persons, organised by the trade union movement, picketed in front of the police station. With popular pressure mounting, the suspects were taken to a DMO at night, and thereafter produced before a magistrate. Four lawyers appearing for the suspects moved for bail, which the magistrate granted and then ordered that the suspects must be produced before a JMO.

### **21. Nandini Herat: Beaten and raped in custody**



Herat Pathirannehelage Nandini Sriyalatha Herat was a 39- year-old unmarried woman who was arrested by several police officers from Wariapola in civilian clothes on 8 March 2002. She was arrested at her home in the presence of her family and was kept for two days in the Wariapola police station, during which time she was severely tortured. The forms of torture included stripping her naked and inserting a pipe-like object in her vagina, which made her bleed and caused immense pain. Once she was produced in court, she complained to the magistrate, who ordered an inquiry. Her own hand-written statement is as follows (translated from Sinhala).

“I was brought to the Wariapola police station on 8 March 2002 around 6:15pm. [The police] came to our home in a white vehicle. There were four people dressed in civilian clothes. Because I was bathing at the time, they asked my father if Nandini was at home. Hearing them, I peeped from the wall near the well. Because I saw someone known to me I wrapped a towel above by bathing clothes and went there. One of them was examining my younger sister’s identity card. His name is Warnakulasuriya. He said they needed to record a statement by me. When I asked what the statement was about, they did not tell me. Warnakulasuriya, the OIC Crimes and a person I did not know came inside our house. They did not allow me to put on my clothes. When I asked Rathnatileke, who was standing at the door, to move away as I wanted to dress he did not do so.

My mother came to the vehicle to accompany me. But they did not allow her to get into the vehicle. When I was getting into the vehicle I saw a person with his head covered by a white sheet. I do not know who he was. They brought me [to the station] and made me sit on a bench. At that time there were no women present. 10-15 minutes later an elderly woman arrived. Between 7:15 and 7:30pm Ananda arrived. He was dressed in gurupata trousers and a white t-shirt. He said that today had been good for getting a bite.

I asked to be taken home. I was not given any food or drink that evening. I asked several times why I was brought there but I was not told the reason. Around 8:30pm Ananda, Rathnatileke and Warnakulasuriya arrived. I heard the reserve policeman calling out to some men and a woman. Those three men were very drunk. Warnasuriya first beat me with a pole. I felt my left arm becoming lifeless. I felt faint. Ananda removed my clothes. I asked him not to remove my clothes. I screamed. After my clothes were removed someone struck me a blow from behind. I could not recognise who it was. Ananda put something like a tube into my vagina. Warnakulasuriya kept my mouth shut with his hand. Rathnathileke stood by the front door and watched. At that time the back door was closed. [He said] ‘This is only a foretaste. It is tomorrow that the job will be done.’

Blood was pouring from my vagina and I felt a sharp pain in my underbelly. The blood was dripping onto the cement floor. Ananda called the woman and told her to cut a piece from my towel and bring it. The woman brought the towel. Ananda tore it in half and gave me one piece. I wore it. With the other piece he wiped the blood on the floor. After that he asked Rathnatieleke something. I did not hear what he said. I heard Rathnatileke say, ‘Put it in Cupboard 4 of the Crimes Division. Tomorrow let us throw it far away.’

A little while later, because I felt sick, I fell asleep right there. I vomited around 5.30am. The OIC told the woman to wash the vomit. 'Can't say if the ASP might come round,' he said. I asked the OIC for medicine and to send me to hospital. He paid no attention to that but gave me a blow. He scolded me with raw filth. After a short while I went to the OIC's room and asked again why I was brought there. Then Rathnaileke said, 'You have no house to go now; they have given it the works also.' I could not think about anything at that time.

Around 10:30 that morning the OIC beat me again with a large pole. At that time I was terribly sick. The OIC Crimes asked him not to beat me. After that I was not beaten. By that time I was in a semi-conscious state. The following night the woman who was locked up with me gave me tea and two snacks from what had been brought for her. There were some others also locked up. I cannot remember who they were. I heard them talking, but I have no memory of what was said. The next morning Warnakulasuriya took me to the Crimes Section, opened a big book and told me, 'Sign your statement.'

At that time no statement had been recorded from me and therefore I hesitated to sign it. But because WPC No. 2212 kicked me hard from behind and because I could not endure any more pain and because I was terribly hungry, I thought that whatever might happen it would not matter, and signed the statement.

Around 12:30 that day I was forcibly taken again in a white coloured vehicle. I refused to get in and did not get in. I was forced into the vehicle. Inside the van was the driver of the vehicle and Warnakulasuriya, who was dressed in civilian clothes. Rathnatileke was dressed in uniform. There was another constable in civies. The vehicle went along Nikaveratiya Road. It stopped near a large Mara tree and Rathnatileke and Warnakulasuriya went there. There were officers in civilian clothes standing by the door of the vehicle. After that I was taken to the Wariapola courthouse. While I was in the van Warnakulasuriya went inside the courthouse. He came back after 5 to 10 minutes. I remember that he had a paper in his hand.

After that I was taken to the Wariapola hospital. I told a doctor about my sick condition. Though he asked me to sit down, there was nothing there to sit on. Rathnatileke and Warnakulasuriya were there all the time. On the way to Kurunegala the vehicle stopped near several shops. I was handed over to the Kurunegala Prison. Till I came to the prison I had had nothing to eat. They gave me food brought from Kurunegala.

On March 10 I was taken to hospital. [Then, after making a complaint to the warden of prison] on March 13, 14 and 15 I was taken to the hospital for visits. On March 17 around 3pm I was examined in the orthopedic section of the hospital. I am still being taken to hospital for treatment. On the day I was brought to court I made a public statement to the lady magistrate."

Nandini has been unable to go to private doctors or to pursue investigations into the case of her own accord as she is being kept in prison in remand. Her father has been severely threatened by the

local police and higher officers not to pursue the complaint. Lawyers are reluctant to help the victim's family because of fear of repercussions. Nonetheless, Nandini made a similar statement to the magistrate of the Wariapola Magistrate's Court, who issued the following order:

“While the police have the right to arrest an accused, to investigate and take a statement from him about the relevant happenings, the police have no power to inhumanely assault anyone. I order Deputy Inspector General Wayaba to investigate this matter and submit a complete report to this court. I order the registrar of this court to send a copy of this order to the Deputy Inspector General of Police.”

The Prosecution of Torture Perpetrators Unit of the Attorney General's department forwarded the information provided by the AHRC on this case to the CID and asked the CID to conduct a criminal investigation into the allegations. The letter from the Attorney General's department further stated that upon completion of the criminal investigation, the investigative material should be studied to consider the institution of criminal proceedings against the perpetrators.

At the start of August, the five officers—including the OIC—of the Wariapola police station were charged before the Wariapola Magistrate's Court. The DIG in charge of the Wayaba area filed the charges.

However, the charges are merely causing simple and grievous hurt to Nandini. These are comparatively less serious offences than charges of rape or torture. What is more, the gravity of state officers inflicting torture on a civilian has been brought down to merely physical hurt caused by one civilian to another.

The officers pleaded not guilty to the charges. When a bail application was made on behalf of the police officers, Priyantha Gamage, the attorney who appeared for Nandini, objected to bail on the grounds that the officers were still holding their positions, and also that they would be likely to interfere with the witnesses and to harass them. Gamage also stated that the police officers should have been charged for torture under Act No 22 of 1994, and the offences under that act are unbailable. The magistrate granted Rs. 10,000 bail for each of the accused. She also ordered that their passports be impounded and the immigration and airport authorities be informed of this order. The magistrate severely warned the accused not to harass the witnesses. She also stated that it was embarrassing to have the same officers who prosecute others to appear in court as the accused. Therefore she requested that the Judicial Service Commission assign a different court to hear this case.

The accused police officers were reported in the press to be engaged in a campaign to oust the DIG who filed the charges against them, with the help of some powerful local politicians. The Minister of Women's Affairs, who lives very close to the police station where Nandini was tortured and sexually

harassed, throughout tried to defend the police officers. When asked by the BBC Sinhala service whether she talked to the victim to find out her side of the story, she said only that she had promised to talk to the victim. However, the minister had not spoken to the victim. It was widely believed that she was trying to protect the police officers.

## **22. Galappathi Guruge Gresha De Silva: On orders from above**

Galappathi Guruge Gresha De Silva was the 32-year-old manager of the Green Garden Hotel, Katugoda. He was taken into police custody on 22 March 2002, together with one Buddhika, a relative of his, by police officers from Habaraduwa police station. They were taken to the Habaraduwa Police station in a police jeep. Both were told to sit on a bench while the OIC of the police station talked to someone over the telephone.

Gresha heard him saying, “We have brought in Gresha. Okay, Sir! Right, Sir.” Then Gresha was told, “Tell the truth, if you want to be saved.” The officer was talking about a murder that took place on March 9.

Gresha answered, “On that day I was with a group of tourists at Nuwara-Eliya. I do not know anything about this.”

Then the OIC took Gresha to the police barracks at Ahangama. His clothes were removed by force. His hands were tied behind his back. He was hung from a beam. He was beaten with wooden poles and pipes by OIC Satisgamage, Si Ariyaratne, Si Lekamvasam, Sgt Chandrasoma, and others in civilian clothes. He was hung and beaten five times the same way by the same persons, and was also hung by the fingers.

He asked for water and was told, “When you tell the truth, water will be given.”

He asked, “How can I you tell something that I do not know?”

He was not given water. He was brought back to Habaraduwa police station. Buddhika had been released by then. Gresha found that his hands were numb and he could not even take any food with them. Some sympathetic officers told Buddhika that Gresha was assaulted on “orders from above”. Attorney Chandrika Ranmalla visited Gresha on the same night and was told the whole story.

Gresha was released at noon of March 23. He was hospitalised from March 23 to April 11. He was examined by Prof Niriella, a well-known forensic specialist, and was told that the loss of use of both hands is likely to be permanent. Gresha made a complaint to the police station at Galle through his lawyer Kumara Bandara.

## **23. Y.C. Benjamin: Assassinated after relentless police harassment**

Until April 2002, Yoga Clement Benjamin, a 47-year-old father of three, sold illicit alcohol. In those days he had reportedly bribed SI Sunil Perera and several other officers at Kaluthara South Police station. In addition to this business, he had a pig farm. After that date, although he stopped selling alcohol and took to selling vegetables and running the farm, the police still collected bribes from him, including getting pork free of charge. After June 2002, when Benjamin refused to supply pork for a wedding, the police became hostile towards him and he decided to sell the piggery.

However, he became the subject of police threats, and conflicts over the payment of bribes continued. On 5 February 2003, two police officers from the Kaluthara South came to collect bribes. When Benjamin refused to pay, the two allegedly beat him. At about 7:30pm on the same day, SI Perera arrived with a group of men and threatened Benjamin, calling him *dhemalaa* (a derogatory term for a Tamil person), and telling him that he would not be allowed to reside there any more.

At 10:30pm on the same day, another Sub-inspector and about ten police officers in plain clothes arrived at the house in a Fargo van, carrying swords and wooden poles. They broke into the house and abused Benjamin's wife and daughter in foul language, destroyed furniture, and took away a gold chain with two sovereigns. They also broke the glass on their wedding photo and took the picture with them. When the family went to complain at the police station they were scolded and chased away.

On February 7, the same group arrived at about 2:30am and, after entering the house from the backdoor, threatened to kill the family. At 9:30am the family complained to the HRC. At 2:30pm on the same day, a big group of police arrived at the house and destroyed all the furniture. At 5pm they found Benjamin, and an officer in plain clothes started to hit him with a steel pole. His son intervened, resulting in a fight. The family then fled.

On February 9 the family went with Nanda Mapalagama Godagama, attached to the Galle Court, to make a complaint to the IGP. However, on February 19 Benjamin's son was arrested and falsely charged at the Kaluthara South police station. On February 22 a neighbour called the officers of Kaluthara South over a land dispute. At about 4:30pm, the police arrived again, in the neighbour's van, as well as their own vehicles. They confiscated Benjamin's motorcycle and appeared to leave. The neighbour then called for Benjamin to come out. When he did, some police appeared and shot at him and his son. However, on this occasion he escaped unhurt.

Finally, on February 26 the police shot and killed Benjamin while he was walking on the road. The police claimed to have acted in 'self defence', and alleged that a pistol was found next to the victim. However, Benjamin had never previously owned or used a gun, and the series of incidents leading up to the killing suggest that it was a calculated murder.

#### **24. Lalith Rajapakse: "Minimum force"**

19-year-old S.Lalith Rajapakse was taken to hospital in an unconscious state by police officers of the Kandana Police station on 20 April 2002. He had been arrested two days earlier and was tortured on April 18 and 19. His condition was described in the interim medical report as most likely due to assault. The JMO's report, which was submitted later, notes the following injuries:

1. Healing scab abrasion 2 inches x 3 inches on the right scapular region;
2. Healing scab abrasion 1 inch x 1 inch on the back of the right elbow;
3. Healing scab abrasion 2 inches x 1 1/2 inches on the front of the right chest;
4. Contusion 2 inches x 3 inches on the back of the left hand;
5. Contusion 2 inches x 3 inches on the front of the left forearm;
6. Contusion 1 inch x 1 1/2 inches on the medical side of the left hand;
7. Contusion 1 inch x 2 inches on the lateral side of the left hand;
8. Contusion 2 inches x 2 inches on the sole of the left foot;
9. Contusion 2 inches x 1 inch on the sole of the right foot; and,
10. Cerebral contusion.

The last injury is described in the report as 'grievous', that is, sufficient to cause death.

Lalith Rajapakse was arrested on the night of April 18 at about 10pm by several police officers of the Kandana police station. When he was arrested, he was hit with a boot on his forehead by one officer and beaten with the wooden handle of an axe on the back and other parts of his body and dragged to a jeep waiting outside his house. He was then taken to the Kandana police station and put inside a cell.

On the evening and night of April 19, several police officers hit him all over his body after he was put on a bench. He was severely hit on his soles with blunt instruments. In addition, books were placed on his head, and these books were vigorously hit with blunt instruments. He was then bathed in water.

On April 20 at about 10am, his grandfather, Elaris, found his grandson's body lying on the floor of the cell in the Kandana police station, and he appeared to be dead. Elaris immediately sought the help of a local politician (Member of Parliament Jayalath Jayawardene) who made inquiries. When

Elaris returned to the police station he was told that Lalith had been taken to Ragama General Hospital. At the hospital, Elaris found Lalith on a stretcher, still in a state of apparent unconsciousness. Later that day, April 20, Elaris and Lalith's mother learned that he had been taken from Ragama General Hospital to the National Hospital in Colombo.

Lalith remained in a completely unconscious condition for 15 days from April 20. He began to recover slowly after this period of time and began to speak, sometimes with clarity, only after May 13. On May 15, he was transferred to the remand hospital in Welikade. After sending Lalith to the hospital, the police had to create an explanation of how the suspect came to have these injuries. For this purpose, they opened three files, two relating to robbery charges and one of attempting to resist arrest, which resulted in the police claiming that they needed to use "minimum force" to subdue the victim.

Then the police officers took these files to an acting magistrate and, without producing the suspect before the magistrate, got an order to remand him in custody. On this basis, Lalith was in remand custody until May 17. On that day, when an application was made for bail, the magistrate vacated this order on the basis that the original order, made without producing the suspect, was illegal.

A complaint on behalf of Lalith Rajapakse was made to the magistrate of the Wattala Magistrate's Court under Act No 22 of 1994. It respectfully requested that the matter be brought to the notice of the Attorney General of Sri Lanka and be investigated and prosecuted by the special unit functioning under the Attorney General for the enforcement of the Act. The court granted leave to appeal and ordered the respondents be given notice. The outcome of that case, and other events, are detailed in a separate section on the case of Lalith Rajapakse in another AHRC (<http://www.humanrights.asia>) publication.

## **25. Eric Kramer: "Tell the truth or you will be killed"**

Eric Antunia Kramer, a 43-year-old father of three, of Katunayake in Colombo, is a welding mechanic for Ceylon Grain Elevators Ltd. The company, which produces poultry food and is owned by a Singapore national, has employed him since 1995. At about 4:30pm on 28 May 2002, Piyadasa, a company security officer, asked Kramer to identify two oxygen cylinders that he used for welding, which Eric did. Two other members of the company, Neil Jayaweera and Stanley Christopher, and a police sub-inspector from the Mutuwal Police station also questioned him inside an office of the company's security division. They asked how these oxygen cylinders, which may have been used in an attempted burglary on the company's money safe, were found on the fourth floor of the building. Eric responded that he did not know. At about 6pm he was taken to the Mutuwal police station in a jeep.

After being in detention for about an hour, the OIC Crimes, the SI who arrested Eric and two other officers wearing civilian clothes began to torture him. The SI beat him with all over his body except his head with a leather belt, and the OIC Crimes slapped him and kicked him twice. He was then

held by his hair and taken near the window, to show Stanley Christopher that he was being beaten by all four of the police officers. Afterwards, Eric was taken to another room by the SI and two other officers, told to lie down and beaten on the soles of his feet and all over his body with a leather belt and wooden poles for about two hours. At about 2am on May 29, the OIC Crimes became drunk and put a leather belt around Eric's neck, tightened it and threatened him: "Tell the truth, or you will be killed." The next day, May 30, he was released at about 9:45pm.

On June 3, Eric Kramer was taken to the Weralabadda police station where a statement was recorded by a police officer named Perera, and he was kept there overnight. He was questioned by the OIC of that police station at about 10 am on June 4. At about 5pm, this officer told him that he was no longer a suspect in any investigation. Eric Kramer continued to suffer from the torture inflicted on him, as he could not walk properly because of the beatings on the soles of his feet and he had chest pains. He went to a private hospital for medical tests. He made a complaint to the Chief Justice and other authorities.

## **26. A.R.L. Ananda: Falsely charged for making toddy**

A.R.L.Ananda, a 50-year-old farmer, was granted leave by the Supreme Court to proceed in a fundamental rights petition after allegedly being tortured and falsely charged by toddy-hunting police. Ananda alleges that on 3 June 2002, Sgts Witharana and Mendis of the Deniyaya Police station came to his home in civvies and aimed a pistol at him, asking for toddy.

He told them he had no toddy. The police officers then began to beat him in the presence of his wife, brothers and six children in a humiliating manner. They then ordered him to come to the police station, where his signature was obtained on a blank document, under threat. Later that night, he was released from police custody, with a warning that he should not make any complaint to any higher authority. After his release, A.R.L.Ananda was admitted to Deniyaya Base Hospital for seven days. He was also compelled to obtain ayurvedic (homeopathic) treatment.

On leaving the hospital, he made a complaint to the ASP of Weligama-Akuressa area. In response, on June 5, the OIC Deniyaya filed a plaint against A.R.L.Ananda in the Morawaka Magistrate's Court, charging him with the illegal possession of 80 drums of toddy. He pleaded not guilty to the charge and alleged it was an attempt to cover up the torture. In granting leave to proceed with the case, the Supreme Court bench also directed the Registrar to call for medical reports from the hospital where petitioner Ananda was warded after he was allegedly attacked by the police officers. The court further ordered the DIG of Southern Province to forward a copy of the report submitted by him to the court.

## **27. Waragodamudalige Gerald Mervyn Perera: Surviving on life support; later assassinated for complaining of torture**



Waragodamudalige Gerald Mervyn Perera a 39-year-old father of two children was tortured by eight police officers at the Wattala Police station (Colombo), resulting in him being put on a life-support system. On 3 June 2002 after finishing his work at the Colombo Dockyard around 9am, Gerald Perera went to his mother's place at Alwis Town. Having spent some time there, around 11am he went by bus to Ekala. At Ekala he bought some groceries to take home and then took the Gampaha bus to his home at Gonagaha.

Around 12:45pm he got off at the Welikada junction and started walking towards his home. Suddenly, two persons dressed in civilian clothes grabbed him by the hands and took him to a jeep that was parked nearby, saying, "It's you we want. We were waiting till you came", and pushed him into the jeep. Seeing his wife and three-year-old son inside the jeep, Gerald asked, "Where is our daughter?" Sobbing she replied, "They did not allow me to fetch her from the preschool." Realising that the men in the jeep were police officers, Gerald Perera pleaded with them, "Please collect my daughter and drop the three of them at my sister's house in Alwis town." This request was not heeded. His wife and son were dropped on the roadside and he was taken away blindfolded.

He was not given any reason for his arrest, let alone a warrant issued by a court of law. Ten officers were present at the time of the arrest and none of them wore police uniform. He was taken into the Wattala police station and was brutally assaulted by the officers attached to this station, namely, OIC Sena Suraweera, SI Kosala Navaratne, OIC Crimes, SI Suresh Gunaratne and several other police officers. Gerald Perera's hands were tied behind his back, his eyes were blindfolded and he was hung from a beam and brutally tortured for about one hour. He was severely beaten with an iron bar on his back, legs, abdomen, and other body parts. Thereafter he was untied and brought upstairs. He was laid on the floor and his hands were burnt with matches.

He was questioned about a murder case of which he knew nothing, and was kept at the station on the night of June 3. Around 10am on June 4, his brother Ranjit Perera visited the station along with the Chairman and Vice Chairman of the Pradhesiya Sabha (Provincial Council) and inquired about him from the OIC. They were told that Gerald Perera had been taken into custody due to false information relating to a triple homicide.

Gerald Perera was released from the police station on the morning of June 4. Complaining of severe pains, he was taken to Yakkala Wickramarachchi Ayurvedic Hospital. The doctor who examined him advised that he should be taken to an emergency hospital as he was in a serious condition. He was then taken to Nawaloka Hospital in Colombo. While in the hospital Gerald Perera made a statement to an officer from another Police station about the torture.

Gerald survived the injuries and treatment, but was later killed before giving evidence against the police in the High Court. Please visit the AHRC website for further details.

## **28. H. Fonseka: Thrown into the river**

On 4 June 2002 an officer known as “Boxer” Jayasinghe of Panadura Police station is recorded as having arrested one H.Fonseka and thrown him twice into the Panadura River. H. Fonseka, who managed to escape the first time he was thrown in, was caught and again thrown into the river by “Boxer” Jayasinghe. Some people intervened and saved him. He was unconscious when he was saved, and would surely have drowned but for their assistance. The medical report of June 6 from Panadura Base Hospital mentioned several injuries due to the attempted drowning. A complaint of attempted murder has been made in this case, but no action was taken. It was also brought to the attention of the HRC.

## **29. Shazyed Mohomad Issas Hussane Moulana: “Give the items!”**

Shazyed Mohomad Issas Hussane Moulana was the owner of the Shek Medical Centre situated at Thakiya Junction, Bandaragama. On 9 July 2002, two men with T-56 guns and IP Prasanna Silva, the OIC of Keselwatte police station, entered his house at about 10:30pm, where he was sitting with his assistant, Baba. They came in a police jeep and a van, but none were wearing uniform.

The OIC put a revolver in Baba’s mouth and said, “Give the items! (Badutika deepan!).”

IP Prasanna turned and asked Ejan, “Are you Ejan Moulana?” to which he replied that he was.

The OIC then began using obscene language and threatened him saying, “If you don’t want to get beaten up give us the two vehicles worth thirty lakhs (Rs. 300,000) and the other thing.” As Ejan did not know what the officer was talking about he was shocked and just stayed motionless, not knowing how to reply. IP Prasanna then hit him with his hand and began to search all over the house, opened the cupboards and taking things out, throwing them onto the floor. He beat Ejan repeatedly and banged his head against a wall six times.

Thereafter the two victims were put inside a van and taken to the Shek Medical Centre. The assailants searched the medical centre, pulling things out of cupboards and looked everywhere. IP Prasanna then pushed Ejan into a wall, pushed his head against it and assaulted him repeatedly. Altogether this event took about 30 minutes. Afterwards, Ejan Moulana was taken to the Keselwatte police station, assaulted again, and told to tell the truth or otherwise he would be hung up and beaten. After this he was put in a cell.

Finally, he was released at 1:30pm on July 1, after being forced to sign a document, the contents of which were not revealed to him. After being released Ejan Moulana went to his sister’s house at Panadura and then entered the Panadura Hospital. He made a statement to the Panadura hospital police post. He was discharged from the hospital at about 4pm on July 12. He was advised to take further treatment. He later learned that the police officers entering his house had told people that he was a thief; however, no charges had been laid against him, or, to his knowledge, had complaints made by anyone. Nor had any magistrate issued an arrest warrant for either of the victims of this incident. Ejan Moulana made complaints to the OIC Panadura, SPP Panadura and HRC. A

fundamental rights application was made to the Supreme Court against IP Prasanna, the IGP and Attorney General.

### **30. Tennekoon Banda: “Where is the toddy?”**

Ehalagoda Gedara Tennekoon Banda, a 36-year-old farmer and father of three children, was arrested at his home in Perakanatte, Wilgamuwa, at about 7:30pm on 12 June 2002 by two police officers from the Wilgamuwa Police station. He was then taken and mercilessly assaulted during the night by SI Nalin Gunawardene and PC Ratnayake (No. 2304).

While being tortured he was asked, “Where is the kassipu (toddy) and dagara (a raw material used to make toddy)?”

These questions indicate that the police may have been given a tip-off by someone that Tennekoon Banda was engaged in the illicit liquor business. Coming from a deeply Buddhist family with a brother who is a monk, Tennekoon Banda had not been involved in any such activity. While being tortured, he told the police officers that he had had surgery twice not long ago and showed the marks on his lower abdomen. However, this made no impression on the police, as they continued to beat him.

At about noon on June 13, the police released Tennekoon Banda to his wife and his sister’s son, in a critical condition. He was not charged with anything. He could not eat, could not talk and could not walk. He was admitted to the Kolongoda Government Hospital where he was treated until June 21. The admitting doctor recorded his injuries as including contusions on the inside of his upper lip, on the back of his shoulder, on his forehead, and on both hands. Because of the torture, the farmer was unable to do his work for a considerable period of time.

### **31. Janaka & Tilan Perera: Assaulted without knowing why**

Kasturi Arrchige Janaka Perera and Mahamarakkalge Tilan Perera are brothers-in-law who live in the same residence in Panadura. At about 5pm on 28 June 2002, PC Lal Gunathilaka and seven other police officers arrived at their home with two motorcycles and a three-wheeler. Several of the officers immediately assaulted both the men, hitting and kicking them, dragging them along the road and finally putting them in the three-wheeler. At the time, none of the police officers were wearing uniforms or anything to identify them as police officers in any other way.

Janaka and Tilan Perera were taken to the Panadura Police station without being told the reason for their arrest.

At the station, they were again assaulted by several police officers led by PC Lal. After this, at about 10:30 pm, two officers took them to the Panadura Hospital. A medical officer examined the men

and advised them that they needed to be hospitalised for further treatment. The two officers refused to allow them to be hospitalised. They were then taken back to the police station and further assaulted by several officers. They were then put inside a police cell and spent the night there.

At about 6:30pm on June 29 the two men were brought out of the cell and produced before SI Liyanarachchi, who swore at them obscenely, threatened to break their hands and legs, and to kill them. After this they were forced to sign statements, the contents of which were not explained to them. At no point were they informed of why they had been detained. They were subsequently granted bail and told to appear at the Panadura Magistrate's Court on July 2, after which they were again released on bail.

Janaka Perera went directly to the Panadura Base Hospital after his release from the police station and was warded there until midday on July 1. He made a statement to the hospital police post while there. After leaving the hospital he began to vomit blood, so he again went for medical help, this time at the Kalubowila Teaching Hospital, from where he was directed to go to the National Hospital in Colombo for special treatment. Thereafter, his nose was operated on several times. Tilan Perera has been taking ayurvedic (homeopathic) treatment. The men lodged a fundamental rights application with the Supreme Court, against PC Lal, SI Liyanarchi, the OIC Panadura, the IGP and the Attorney General.

### **32. Maldeni Piyaratne: Beaten to death in under 45 minutes**

Maldeni Kankanamage Piyaratne, a 33-year-old father of one, obtained a special degree in zoology in 1996. After graduation, he worked as a research assistant on a project conducted by the International Water Management Institute (IWMI) in collaboration with the University of Peradeniya, Department of Zoology. On 29 June 2002, Maldeni was admitted to Peradeniya Teaching Hospital with a fever. Before admission to the hospital, blood tests were taken and test reports showed that the blood was normal. After admission, blood samples were again taken and sent for a report, which was received on July 3.

His wife, Nilmini Herat, visited him at the hospital that morning, and he had been quite normal and talked to her in the usual way.

At about 10:30am on July 3, one of Maldeni Piyaratne's colleagues, Ranasinghe, called Nilmini to say that police were assaulting her husband by the police near the Gatabe Temple. This colleague, who had been passing the place on a bus, had seen Piyaratne being beaten and had left the bus to intervene. The colleague told the police of his and Maldeni's identity and asked them not to beat him. At this time, Maldeni still had a canula attached to his hand and was wearing the sarong he had on in the hospital. Both of these indicated that he was an in-patient, however, despite this and Ranasinghe's assurances, he was chased away, and Maldeni Piyaratne was taken to the nearby Peradeniya Police station.

Ranasinghe rushed to the university and came back to the police station with Prof. Parakkrama Karunaratne to intervene on his colleague's behalf. The time it took for the two men to return to the police station was no more than 30 minutes. However, by the time they arrived the police station was being washed clean of blood, and they were told by the police that Maldeni had been taken to hospital. At this time Nilmini Herat also arrived and saw the blood being washed off.

The whole incident, causing wounds that ended in the victim's death, had taken only approximately 45 minutes. This suggests an extremely brutal type of assault. Nilmini Herat rushed to Peradeniya Teaching Hospital and saw her husband on a trolley. There were wounds on his hands and face, and he was bleeding; he was still alive. His hands and feet remained bound with iron cuffs. According to her, the doctors had attempted to give him oxygen but were hampered by the chains on his hands and feet. The police went back to the station to get the keys for the locks, but by the time they returned, Maldeni was dead.

Nilmini Herat immediately lodged a complaint stating that the Peradeniya police were responsible for her husband's death. The OIC Peradeniya is K.M.S. Bovela. A post mortem inquiry conducted by the JMO at Kandy Hospital revealed injuries to the head as well as other parts of the body. There was speculation as to how Piyaratne came to be out of the hospital not long after his wife had seen him sitting and talking normally. Some injection may have been administered to him, causing mental disorientation. However, no explanation was offered or confirmed. The reasons for the police actions were completely unknown.

### **33. Susil Jayalath: A mysterious fall**

Uduwa Widanelage Susil Jayalath, a 19-year-old of Sapugaskanda, was arrested with two other people. According to the family, when the police arrested him he was drinking from a coconut in an area where the police had made a raid against drug-users. The family maintains that the boy did not use any drugs and in fact he did not even smoke. Precisely what happened to Susil after his arrest remains a mystery. What is certain, however, is that he died on 29 June 2002 while in custody of the Sapugaskanda police station. The medical report issued by doctors at Colombo North Teaching Hospital indicates that injuries to his lower body were consistent with blunt force type injuries sustained due to direct blows. The lower injury is consistent with an injury sustained due to kicking and the upper injury is consistent with injury due to a direct blow on the back with a blunt weapon such as a wooden pole. However, according to the medical report, his death was not caused by these injuries; rather, the report observed: "The injuries to the head, back and the elbow mentioned above, when taken together, are consistent with injuries sustained due to the body forcibly coming into contact with a hard, rough surface (such as tarred-road) following a backward fall with some amount of movement thereafter."

The family claims that the boy was thrown out of the van in which the police were taking him. The police claim he jumped. What is not in dispute is that prior to either being thrown from the van or jumping from it, Susil Jayalath was in police custody, and had been beaten by the arresting officers.

On receipt of the medical report, the magistrate at Gampaha Magistrate's Court issued instructions for a full inquiry. To date the case has not yet undergone a criminal investigation as required by the (criminal procedure) law or a judicial inquiry as required under the law. This case led to the largest protest by the people of the Sapugaskanda area in recent times. The police had to be removed from the area, and the military had to be deployed to bring the situation under control. The protest showed a very deep-seated resentment against the practices of the police.

### **34. Arthur Vithange & Anusha Vithana: "You will both be put in the house and burned"**

Arthur Vithanage, 60-years-old, and Anusha Vithana, 20-years-old, are a father and daughter living in Ovitigala, Mathugama. At about 1pm on 30 June 2002, a group of police officers from Mathugama Police station arrived at their house in a police jeep.

Only the driver wore a uniform. SI Thennekone entered the property and began saying in reference to Arthur Vithanage's son, "You prostitute dog (Tho vesa balla), where is Jayantha?" Arthur Vithanage was beaten with a club and dragged to the back of the house. While he was dragged he fell down several times. He was pulled up each time he fell down and was beaten.

As her father was being beaten, his daughter Anusha ran towards him. Sgt Vithana hit her with a baton saying, "Go prostitute girl, find your brother (Palayan vesa kelle, ayyawa gihin hoyapan)".

Arthur Vithanage was dragged into the back of the house and beaten by both SI Thennekone and Sgt Ajith Vithana. An officer said, "Let us beat and break the leg of this old fellow, then his son will come running from wherever he is."

When his daughter again intervened saying, "Do not hit my father", SI Thennekone hit her and pushed her.

Arthur was then dragged to the police jeep while being beaten by Sgt Vithana, who shouted, "Get in, you son of a prostitute," and pushed him inside. He was beaten further inside the police jeep, and his head was pushed onto an iron bar.

Sgt Vithana further threatened Anusha by saying, "This old fellow and you will both be put inside the house and burned." SI Thennekone threatened to rape and kill her, saying that, "We will kill her after playing with her (Api mekiwa maranne mekith ekka selamkarala evarwela)."

Arthur Vithanage was taken to the Mathugama Police station, where Sgt Vithana continued beating him. PC Liyanage (No. 26166) and PC Anil (No. 13543)—who had travelled together with the party in the jeep—also beat him, in the presence of about 15 others. Then he was put inside a police cell. He was taken out at about 12:30pm the next day, July 1. He was threatened that his son's hands and legs would be broken. He was told to sign a statement and then put back in the police cell again. He was produced before the Mathugama Magistrate's Court at about 2pm the same day, with the charge of helping a suspect escape, and the magistrate gave him bail.

Arthur Vithanage was hospitalised the same day, until July 3. While in hospital he made a complaint to the hospital police. Later he made complaints to the ASP Kaluthara, the IGP and the HRC. The Kaluthara General Hospital medical report indicated “grievous injuries... sufficient in the ordinary course of nature to cause death” inflicted with a blunt weapon.

A fundamental rights application on his case was also lodged in the Supreme Court against the police officers involved in the assault, the OIC of the Police station, the IGP and the Attorney General.

### **35. T.K.Hiran Rasika & E.A Kasun Madusanka: Torture of children**

On 8 July 2002 two children studying at Millika Mahavidyala (High School), were arrested and taken to the Hiniduma Police station over a theft from the school canteen. The two were 10-year-old T.K.Hiran Rasika, from grade 5, and 12-year-old E.A Kasun Madusanka, from grade 8. According to Hiran, the brother of the school canteen officer, Gamachige Saman, came to his house at about 6pm on 8 July 2002 and called for him to go to the Hiniduma Police station regarding some thefts.

Hiran refused to go, and shortly after Gamachige came back with two officers from the police station, who were not in uniform. They took Hiran and Kasun to the police station together. As they went, one of the two police officers pulled Hiran by his ear and hair and said, “Kasun broke into the canteen, no? (Kasun cantena kaduwa, neda?)”. The canteen officer and his brother were there.

At the police station the boys were told to admit their involvement in the theft. Two officers began assaulting Hiran, telling him to say that Kasun broke into the school canteen. They also tortured Kasun, demanding that he admit to breaking into the school canteen.

The boys were first made to kneel on the floor inside a room at the police station and were told to stretch out their arms, while heavy objects covered with police uniforms were placed on his hands. After some time, they were told to get up and hold both ears and to keep on jumping.

Thereafter, Hiran was hit with clubs on his legs, thighs, and the back of his body. Objects were inserted under his fingernails. His hair was pulled with pliers. His penis was pulled several times, he was hung up by the legs, and the soles of his feet were beaten with a club.

Kasun was also hit with clubs on his legs, thighs, and the back of his body, then his testicles were put inside a drawer and the drawer closed. His fingernails were pulled. The police assault took place from about 6:15pm to 12pm, when, due to intense pain and suffering, Kasun became willing to admit to breaking into the canteen.

However, Hiran refused to admit to witnessing him having done it, so the assaults continued until he finally also agreed to do as the police instructed. Throughout the ordeal the boys yelled and screamed, but no other police officers came to investigate.

The boys were released without charge around noon on July 9. They were both taken to Hiniduma Police Hospital and then the Karapitiya Teaching Hospital at Galle, where they were treated until July 27.

However, both are suffering ongoing ill-effects from the torture, physical and psychological. Hiran Rasika and his father have submitted a fundamental rights petition to the Supreme Court with the assistance of W.R. Sanjeewa. The respondents are the OIC Hiniduma, the ASP Galle, the IGP, Attorney General, school principal, Palitha Hettigama, and school canteen manager, Shirromi Deepika and his brother.

Hiran's father maintains that not only was his son not charged with any offence, but also at no time was his family informed of the arrest. In fact, Hiran was never detained with the intention of charges being laid against him, but rather to have him confess against his schoolmate.

The incident was reported on television and in other mass media. A leading newspaper, Divayina, questioned why the police were called to investigate the theft. It recalled the incident in Ambilipitiya where 28 school children disappeared after a school principal conspired with some soldiers to assist him with his private dispute. Meanwhile, the ASP Galle, rather than ordering a prompt inquiry into the incident in order to punish the perpetrators, reportedly said on the radio that the two torturers had since been transferred elsewhere.

### **36. Chaminda Premelal: "We will kill you and throw you away"**

V.G.G.Chaminda Premalal, a 16-year-old grade-11 student at Dibulagala Mahavidyalaya (High School), Polonnaruwa, was arrested and taken to Aralaganvila police station from his home on 9 July 2002, at about 7:40pm. The arresting officers said that he was being taken for questioning over several theft cases. At the station, he was told that he was responsible for breaking into a hair salon and some houses in the area, which he denied. He was then beaten on his back, including his spine, and on the soles of his feet with a PVC pipe. His head was pushed hard against a wall several times. He was then pushed onto the floor, and the officers trampled upon his body. He was held at the station overnight.

The following day, July 10, two police officers of the Crimes Division, Lalith Rajamantri and Nihal, who were drunk, and several other officers, took him to the top floor of the station. They showed him a rope and said, "We will hang you up; we will kill and throw you away. You know we can escape. We can say that you ran away on the way. We will break your hands and legs. We will hit you in a way you will die in a month." After that they continued to assault him. During the assault, Chaminda yelled and screamed, but no other officers came to investigate. Finally he shouted, "Don't hit me. My head is aching. I will admit to anything."

Then the torture stopped. He was taken home, but his personal belongings, including the bicycle he uses to go to school, a screwdriver and a calculator were kept in police custody. He was taken back



to the police station and held there. The next day he came before a magistrate, and was ordered released on bail. As a result of being tortured, the soles of Chaminda Premalal's feet were swollen, and he had pain in his spine. He had headaches and vomiting and could not focus. He was treated at the hospital in Aralaganvila. A fundamental rights application was lodged on his case in the Supreme Court, against the police involved in the assault, the OIC Aralaganvila, the SSP Polonnaruwa, the IGP and the Attorney General.

### **37. S.A. Piyadasa, S.A. Milantha & Aruna Kumara: "A good meal"**

Subasinghe Aarachchige Piyadasa is a retired civil servant, married with three children, who now sells coconuts for a living. At about 8am on 30 July 2002, S.A. Piyadasa went to the Diamond Jubilee School to meet his grandson. At that time he became involved in a dispute with the security watchman of the school premises. Then a few teachers from the school intervened and settled the matter.

Piyadasa's son, S.A. Milantha, learned about the dispute and came to the school, as their home is only about 500 metres away. After that they went home together. When S.A. Piyadasa arrived home he got ready to go to cut coconuts.

It was about 9am when five persons arrived at his home from the Panadura police station. Two of them wore police uniforms and the other three were in civilian clothes. One of the persons in civilian clothes asked him, "Who is Piyadasa?" He replied that it was he. Later he learned that the person who questioned him was known as "Major".

This man then asked Piyadasa where his son was. S.A. Milantha stepped out of the house. They called him to the compound in front of the house and told him to stay beside S.A. Piyadasa. They also called Piyadasa's son in law, Aruna Kumara, who was at home at that time, saying, "You too, come here." Saying that, the "Major" took a stick and assaulted him with it.

After that they removed the tee shirt of S.A. Milantha and used it to tie his hands behind his back. Then "Major" assaulted all three of them with the stick. The other four persons surrounded them and also started beating them. While they were being beaten, Piyadasa's wife and daughter watched from within the house.

Continuing to assault them, the police officers loaded all three into the jeep. They were taken to the school and told to get down. They were brought near the school gate and the police started beating them, asking, "Will you come to this school again?" The police ordered Piyadasa and Milantha to kneel down and pay respects (by putting hands together and bowing) to the peon of the school, Gamini. Since they could not tolerate the beatings, they did so.

After that the police ordered Piyadasa and Milantha to kneel down in the middle of the road. They ordered Aruna to leave. Then they ordered the two men to walk on their knees towards Galle Road. While they were walking on their knees, the police continued to beat them. They walked like this for

about 100 metres. Then the police assaulted them again with sticks and took them into the jeep. From there the two men were taken to the Criminal Division of the Panadura police station and after they arrived there the “Major” remarked, “This is a good meal for you.” Inside they were assaulted again.

They were told to place their hands on a table and their hands were beaten with a stick. When that beating was coming to an end the police officer known as “Boxer” Jayasinghe began beating S.A. Piyadasa on the head with a rubber pipe, causing him to become dizzy, and he was made to kneel down. After that “Boxer” Jayasinghe beat S.A. Milantha with the rubber hose. Then a policeman who had been typing in the room began beating him also.

“Boxer” Jayasinghe ordered Milantha to beat his father’s feet. When he hit his feet only mildly, “Boxer” Jayasinghe began beating Milantha. After that he was forced to beat his father hard, who told his son, “Beat me, and there is no sin in doing that.” At no point was any attempt made to record a statement from them or question them in a normal manner, and no complaint was made by anyone, nor was any other evidence taken from them or shown them that could form the basis on which they could be suspected of any offences, and no such thing was told or explained to them.

After about one hour of this treatment, both of them were locked up in a cell. At about 3pm, “Boxer” Jayasinghe and another police officer took the two men to Panadura Hospital. S.A. Piyadasa told the doctor that he has been beaten and showed the wounds to the doctor, but the doctor ignored them. After that he and his son were brought back to the cell in the police station. At night S.A. Piyadasa cried out in pain and for medical treatment.

At about 4:15pm the next day, July 31, both of them were released on bail. “Boxer” Jayasinghe threatened them, saying that if they were to go to a hospital, their house would be burnt. Because of that they did not go to hospital. Instead, on August 1, they got treatment from an ayurvedic (homeopathic) doctor. Due to the threats by the police and financial difficulties, S.A. Piyadasa did not make any complaint about the assault by the police. On August 7, however, they were brought before the HRC after their case had become known. Having made a complaint there, on August 8 they went to the Police Headquarters and complained, after which Piyadasa was interned for three days for examination by the Pandura DMO. The doctor discovered that a bone in his lower left arm was broken and bones in the right arm were broken and crushed. Piyadasa then made a further complaint to the DIG Panadura.

A fundamental rights application was also lodged with the Supreme Court against the police involved in the assault, the OIC Panadura, the IGP Panadura Division and IGP of Police Headquarters, and the Attorney General.

### **38. H.K.Sampath: “I will plant bombs in your house and implicate you”**

Hettiarachchige Krishantha Sampath was a 22-year-old vegetable seller, and the sole income earner in his six-member family. At about 11am on 1 August 2002, six unidentified police officers from the Panadura Police station came to the Petitioner and told him, “We have to take a statement from you, get into the jeep.” Four of the six officers did not have uniforms on.

The policemen also asked Krishantha, “Who were your friends who broke into the house opposite of yours?” When Krishantha said that he did not know about that the police officers told him, “Let us look into that at the police station.” At the Panadura police station Krishantha was ordered to sit on a bench till about 2:30pm. Then an out of uniform police officer took him into a container in the police station compound. There he began severely beating Krishantha with his fists, on his cheeks, head and stomach.

While beating him, the police officer used obscenities and said, “Tell me who your friends are who broke into the house.” After beating Krishantha for about 10 minutes, he ordered him to sit on the bench again. He was subsequently forced to sign a statement, and released from the police station at about 5:45pm.

At about 2am on 3 August 2002, around five policemen from the Panadura Police station again came in to take Krishantha from his house. None of the police officers wore uniforms or informed him of their identities, nor why he was being arrested. None of them showed a warrant for his arrest. The police officers told Krishantha’s parents that he would be sent back home after giving a statement. Then they threatened the parents not to follow them to the police station, saying that if they did, they would cut off their tongue and then the head of their son, or would beat him till he become insane or mentally ill. A neighbour also witnessed Krishantha’s arrest, and submitted an affidavit on what occurred. Krishantha was taken back to the station by jeep, and after passing through a number of junctions arrived there at about 3:30am. After the jeep arrived in the compound, Krishantha was taken out of it.

One IP Indrajith immediately began to beat his cheeks and head with his fists. Then he was told to sit on the floor of the station and IP Indrajith assaulted him severely using a rubber hose. He then squeezed Krishantha’s neck tight and dragged him by it to a cell and threatened him, saying, “I will hang you up and beat you, I will plant bombs in your house and implicate you for that, I will file cases against you.”

At about 8am on August 3, Krishantha’s aunt came to visit him. Krishantha informed her that IP Indrajith had beaten him.

At about 9am Shiran de Silva was also shown to him. Shiran De Silva asked Krishantha about some things and then signed for his bail. Shiran de Silva is a former village security officer.

Later Krishantha learned that his aunt had complained before the HRC. Subsequently, HRC staff spoke to the OIC Panadura and the latter agreed to release the detainee on bail. After his release, he was admitted to Kalubowila General Hospital, where he stayed from August 3 to 6. On August 5 about five police officers from Panadura police station visited Krishantha at the hospital and

questioned him about the incident, recorded a statement and obtained his signature for it. He lodged a fundamental rights petition in the Supreme Court against IP Indrajith, the OIC Panadura, the IGP and the Attorney General.

## 2003

### **39. Koralagamage S.D.: Illegally detained and tortured for a week**

Police of Kaluthara South CID arrested Koralagamage Sujith Dharmasiri (aged 23), an army deserter, on 1 January 2003 and held him until January 9, during which time he was allegedly tortured.

IP P.L.Abeysinghe and several other police officers took him while he was attending a funeral and kept him in custody illegally for a week. Although his mother went to the Police station daily from January 2, she was abused with filthy language and chased away on every occasion until January 7, when she was finally permitted access to her son. On January 8, she was challenged by an officer who said, “Try if you can to get him out by complaining to the HRC. We will see that he will not get bail.” After that she was again chased away. Nonetheless, the family sought intervention by the HRC and local human rights groups and, after Sujith went missing for a short period on January 9, he was produced before a magistrate.

According to the family, Sujith was being deliberately kept somewhere outside the police station. During that time, the police took him to a doctor and attempted to get a medical report to the effect that there were no injuries on his body. However, Sujith told the doctor he was assaulted severely. The police then went to a magistrate and applied to hold Sujith on the grounds that he was needed for an identification parade. Without seeing or questioning Sujith, the magistrate reportedly remanded him until January 20. He was subsequently bailed out, and has since filed a fundamental rights application in the Supreme Court against the police for torture, illegal arrest and illegal detention.

### **40. Bambardene Gamage S.P.: Beaten and humiliated for alleged theft**

SI Romiyal of the Matugama Police station entered the house of 17-year-old Bambarende Gamage Suraj Prasanna together with another officer and arrested him around 1pm on 8 January 2003. SI Romiyal then allegedly began hitting Suraj in the face and asking him whether he was the one that stole the money from the temple, after which he pulled off his t-shirt and used it to tie his hands behind his back. He then continued to beat Suraj while dragging him along the road to a Dolphine van (licence plate 56-5183), which he then used to take the boy to the Matugama Police station.

After putting him in a cell, the sub-inspector reportedly took hold of Suraj's hair and beat his face against the iron bars. A number of other officers took turns hitting his face against the bars holding him by his hair. At about 4pm, Suraj was taken out of the cell and made to crawl on his knees for fifteen minutes, during which time SI Romiyal beat him with his hands and feet and ordered him to hold the feet of other police officers, to kneel and worship them.

The police released Suraj at about 4:30pm with the strict warning that if he returned home before dusk he would be killed. Because he was afraid, the boy stayed near a shop until about 8pm, after which time he returned home. He narrated the whole incident and was admitted to the Wattawe government hospital. He was treated there until January 10, after which time he was transferred to Nagoda General Hospital for further treatment.

#### **41. T.A. Premachandra: Shot dead because of alleged traffic offence**

On 1 February 2003 at about 10:30pm, T.A. Premachandra, a father of two children, was driving his motorised trishaw home from his work as an electrician at the Ceylon Electricity Board, with two companions in the back. Two officers of the police traffic unit at Kaluthara South on their motorcycles overtook the vehicle from the left and shot the driver in the head with a T-56 rifle. The bullet entered the victim's head near his left ear and came out at his right eye, killing him instantly. The vehicle crashed into a lamppost and overturned, causing severe injuries to the two men in the back.

When one of them tried to use his mobile phone to call his family for help, the police reportedly kicked him and confiscated the phone. A jeep from the Kaluthara South police station arrived shortly and took the two injured and the dead man to the Base Hospital at Nagoda, where the dead body was handed over to the hospital, while the two injured men were taken to the police station and arrested. They were not even given water till the post-mortem examination of their friend was conducted the following day, February 2, after which time they were allowed to enter the hospital.

The two police officers responsible said that the driver was shot because he refused to stop when ordered to do so. They claimed to have been acting on information received from Wadduwa police station that the said vehicle had been involved in an accident with a van. They also claimed that the shot was fired at the tire of the vehicle but due to ruts on the road it went astray. ASP Jayantha Kulathilaka, heading the post-mortem investigation, told journalists that the police had acted within the law.

#### **42. M.A. Fernando: “Get up, you are just pretending”**

While presenting his petition before the Supreme Court of Sri Lanka, Michael Anthony Fernando was sentenced to one year in prison for contempt of court by the same judge against whom he was bringing a petition.

On 6 February 2003, while Fernando was presenting a writ before the Supreme Court of Sri Lanka he was convicted for contempt of court and sentenced to one-year rigorous imprisonment. One of the presiding judges was a respondent to Fernando’s claim. After Fernando was taken to Welikada Prison he was hospitalised there due to a serious asthmatic condition. As his health worsened, he was taken to the Intensive Care Unit of the General Hospital.

On February 8, he was taken out of that unit and put in Ward 44, but there he was not given a bed and was instead made to sleep on the floor with his leg chained, as requested by the prison authorities. Two prison guards stayed with him. Due to sleeping on the floor, he developed a chill and his condition again worsened.

He was placed on a bed, but tossing and turning, he fell and injured himself. Then, although he was suffering pain all over his body, he was transferred back to the prison. Between 2 and 5pm on February 10, as he was being taken back to prison, he was beaten and kicked by the prison guards on the roadside and in the van used to carry him. On February 16 he submitted a complaint, as follows:

“On 10 February 2003, I had an asthma attack again. By then, I was discharged from the hospital. Because of the unbearable pain from the asthma attack, I turned on the bed, and I fell. The pain in my back due to the fall was very severe, making it very difficult for me to get up. One hospital servant began to shout, ‘These prisoners do not want to leave, even when they are all right. It is a terrible headache to us’.

“Then the prison guards prepared to take me to the prison. I got up and shouted, ‘I cannot [go] because my back is in severe in pain.’ Then a person wearing khaki trousers, a white shirt and boots asked, ‘Aren’t you the person from Dehiwela? We know who you are. Get up, get up. You are just acting. We will look after you.’

“However, since I could not get up, I remained without moving. Then the prison guards carried me out of the hospital to a vehicle. I was put down by the road near the hospital, and the prison guards began to assault me in front of my father. The person who assaulted me was the one in plain clothes... When I was shouting in pain, my father (Oswald Emmanuel Fernando) came forward and begged the prison guards, saying, ‘You cannot take him except in an ambulance.’ The person in plainclothes did not listen to any of that. He caught me by the neck and pushed me inside the police van.

“My father shouted, ‘Ayyo, they are trying to kill my son.’ People at the ward gathered around the van hearing my father’s cries. The only prisoner in the van was me. Other than I, there was a prison officer, two guards and the driver. The person who pushed me into the van kicked me very hard and slapped me on both cheeks. I knelt down inside the van. Then I was kicked several times on my spine with his boots. I was afraid that I would be killed. I shouted and begged, saying, ‘Do not kill me...’

“When the van reached the prison premises, the same person said, ‘You have no sickness. Get down without pretending,’ and he gave me a few kicks. I felt as if my spine had been broken. I simply could not get up. I told him I couldn’t get up. Then I was put on a stretcher, which looked like those used for carrying corpses, and taken to a nearby extremely foul-smelling toilet and told, ‘If you cannot get up, stay there.’ Though I shouted many times, ‘I cannot bear the terrible foul smell; take me away from here,’ no one helped. They were saying, ‘You have no illness. You are pretending.’

“Meanwhile, some prisoners came and told me to get up, to not pretend, and they harassed me. I felt that these prisoners came at the instigation of someone else. I begged them not to harass me. I may have been kept near the toilet for more than 24 hours. Then I wanted to go to the toilet. I shouted, asking for help. However, no one helped me. ‘You are lying. Get up and go to the toilet,’ someone cried from afar. As I could not bear the pain, I excreted there. I also found it very difficult to urinate. Though I shouted again to remove me from that spot, no one came to help me. Then someone came and removed all of my clothes, leaving me completely naked.

“He said, ‘If you find it difficult to stay like this, get up and come.’ I stayed a further 24 hours near the same toilet. Then I refused to eat or drink and observed a fast, demanding that I be given medical treatment.

“Then my urine became blood red. My blood was passing with my urine, and the prison authorities became fearful. They brought me back to the intensive care ward of the hospital [Ward 72] on February 17, at night. I was brought in a van as I was told that the prison does not have ambulances. I was told that however serious the prisoner’s condition was, this is how a person would be brought to the hospital. At the hospital, I told the doctor about all of the cruelty and torture. I was told that what I had said was not recorded in the bed-head ticket—maybe because it was thought that it is not good to record that prison officers have treated a patient in this way...”

After Fernando’s release from prison on 17 October 2003 he was subjected to continuous threats due to his active campaigning for his rights. He filed several cases against the prison guards who tortured him; however, the dates for hearings were postponed. He also filed a communication before the United Nations Human Rights Committee, and for a discussion of the outcome of that case please read the analysis of cases elsewhere on the AHRC website. Finally, he and his family moved abroad to escape harassment, including further threats on his life.

#### **43. Kurukulasuriya P.N.: Tortured, then imprisoned for 21 months**

Rev. Fr. Alfred Bernard Costa was killed on the night of 10 May 2001 at his mission house in Thillanduwa, Negombo. On May 13, Negombo Police arrested Kotagalage Gamini, and after gathering information from him, arrested Kurukulasuriya Pradeep Niranjan, a 30-year-old worker and father of four. As soon as Kurukulasuriya entered the Negombo Police station, the police asked him whether he knew Kotagalage Gamini, and he told them he had only heard of him. Then he saw Kotagalage there, who told Kurukulasuriya to tell the truth about killing Fr Costa. He shouted at Kotagalage that he did not know anything about this. He realised that the police were falsely and purposefully implicating him and pleaded his innocence.

The policemen began torturing Kurukulasuriya. They mutilated his hands and fingers and then they hung him upside down with his legs tied, while four policemen, supervised by IP Nishanth, hit him with cricket stumps on his back, legs, and soles of his feet.

At about 8pm the police took Kurukulasuriya to the house of Acting Magistrate Godfrey Cooray at Kandana. In the meantime his wife had come to look for him but could not enter the police station; people yelled that she was the wife of a priest's murderer. She could hear Niranjan begging not to be tortured. Then she went to the ASP's office and pleaded her husband's innocence, but the ASP did not respond.

Meanwhile, the police took Kurukulasuriya to Negombo Remand Prison, but did not register him as an inmate. Jailer Somaratne the next day beat him on a table while naked. After that the staff registered his name, and then another jailer named Senadeera tortured him, saying he murdered a priest. Then they took Niranjan to court, where the magistrate recorded his statement. Subsequently the Central Intelligence Bureau took over the investigation and ASP Priyantha Jayakody took him to Police Headquarters in Colombo and again recorded his statement. After that he was returned to remand where he languished until February 2003.

On 21 February 2003, the magistrate released Kurukulasuriya on instructions from the Attorney General, and said there would be no legal action against him. For 21 months Kurukulasuriya stayed in the remand prison and during this time people abused and defamed his family such that his children could not even enroll inschool. They were also excommunicated from the church. Kurukulasuriya continued to suffer from the aftereffects of torture and could not work outdoors to support his family.

#### **44. Sunil Hemachandra: Death for winning lottery**

Sunil Hemachandra, a 32-year-old rubber tapper, won Rs. 3,003,100 (USD 30,030) in a lottery on 29 June 2003. A few days later, hearing the news, some police officers visited his house and tried to extort money from him, without success. According to the family, at about 12:15am on July 24, police from Moragahahena station again came to the house, and arrested Hemachandra without charge. When his family went to the police station the next morning, July 25, they found him lying unconscious in a cell, bleeding from the nose. They claim that according to an eyewitness account,



OIC Maheepala, PC Muthubanda and PC Wijemanna savagely beat Hemachandra. He was taken to the Horana Hospital and then transferred to the National Hospital in Colombo. However, he died in hospital on July 26.

According to the Moragahahena police, Hemachandra was arrested along with another person, Chanaka, who was wanted by them. When he objected to the arrest, he was also taken to the police station and locked up, police said. An officer from the station spoke on radio that Hemachandra had an epileptic fit and collapsed while at the station. However, he has no history of any illness. The DIG-Western Province South, K.P.P. Pathirana, meanwhile told journalists that the man had fallen and hit his head because he was drunk. A complaint regarding the arrest, torture and death was made to the ASP-Horanam, but he failed to take any action.

Furthermore, according to newspapers, the ASP who was assigned to conduct inquiries into this case, along with the police officers from Moragahahena police station, are allegedly responsible for the death. The victim's mother and sister filed a fundamental rights application in the Supreme Court.

#### **45. R. Dhanapalasingham, R. Saravanaraj & M. Prabhakaran: An accident leads to assault**

While Ramaiya Dhanapalasingham, aged 23, Ramaiya Saravanaraj, aged 26, and his brother Muragaiya Prabhakaran, aged 25, were walking from the town of Bogawantalawa towards Chapelton between 5 and 6pm on 7 July 2003, two motorized trishaws came at high speed from the opposite direction. The first one hit Dhanapalasingham, throwing him off the road.

Since the vehicle failed to stop after the accident, the men went to make a complaint at the Bagawantalawa police station. But before they arrived at the station, three police in civilian clothing came down from a jeep with batons and poles and began assaulting them. The men came to understand that one was the OIC of the Bagawantalawa police.

Following the assault, they were then taken to the police station and beaten again. At about 10pm, a doctor arrived and after a discussion with the OIC, examined Saravanaraj. According to Saravanaraj, the OIC warned him not to tell the doctor that the police had assaulted him, but rather to blame it on the trishaw driver. The OIC held a pistol against his brother and threatened to shoot him if he told the doctor what had really happened. According to Saravanaraj, the doctor did not ask him anything anyhow, and did not examine the wounds on his back caused by beatings with a pole, nor the injuries sustained by his brother.

The men were subsequently taken for treatment to the hospital, but when the men's parents, the chairperson of the District Council, and a local trade union representative tried to visit them the OIC chased them all away and told them they could come to see things in the court. After they were remanded in custody, a neighbour brought them food for the night but had hot water thrown at

him. On July 8, the OIC forced the men to sign a document, which was later submitted as evidence to the Magistrate's Court at Hatton.

In the complaint, the police allege that the three men assaulted the trishaw driver. The men's lawyer pointed out that the three were actually assaulted by the police, and had Saravanraj lift his shirt to show the wounds on his back.

However, the magistrate was not interested and instead asked the police why the guns given to them were not used on such occasions. The men were then remanded for a further 14 days.

While at Bogambara prison, Dhanapalasingham was kept in the hospital ward for three days of treatment on the wounds he sustained at the hands of the police. After the men were bailed out, they were admitted to the Nuwaraeliya hospital and remained there for four days, during which time they made a statement to the police officer on duty.

However, efforts to make a complaint to SP Hatton had been unsuccessful. The ASP also initially refused to accept their complaint but, when presented with evidence by a representative of a local human rights group, he recorded separate statements from each of the three men.

#### **46. C. Bandara Jayaratne: "Tell the truth, otherwise we will kill you"**

B.G. Chamila Bandara Jayaratne, a 17-year-old high school graduate, was hung from a ceiling and beaten by the police, causing serious injury to his left arm. He described what happened to him as follows:

"At around 4:30-5pm of 20 July 2003, one civilian personnel attached to the Ankumbura Police station (Kandy) came to my family's house. At that time I was the only one at home. He told me to come with him and took me to a waiting police jeep. There a police officer, whose name I later learnt is Sgt Premasiri, took hold of me and gave me several blows, saying, 'You have scolded someone who helped us to catch some thieves!' He hit me hard on the face and body about ten times, then handcuffed me. I was put in the police jeep, and saw one of my cousins, Upali, was also there.

"There were two uniformed officers in the jeep, and one kept the butt of his gun on Upali's head. He said, 'You tell the truth, otherwise we will kill you.' Another boy was also in the jeep. We were then taken to the Ankumbura Police station. Inside the station, SI Senevirathna held me, bent my head, and hit me very hard on my spine. Then he kicked me on my face with his boots and pushed my head against the wall. I was taken to a hall inside the station, and handcuffed to a bedpost. I was verbally abused in crude language and told by the same officer that he would come at midnight and, if I didn't tell the truth, he would teach me a lesson. However, nobody came at that time.

“The next morning, at about 9am the OIC of the police station came and told me to tell the truth or I would be assaulted. I was then taken to another place where there was a bed, and the OIC told me to remove my shirt and lie face down on the bed. There were several officers present. One person, who was not wearing a uniform, sat on my back. Someone held my legs tight. Then the OIC and another officer hit the soles of my feet.

“The OIC hit me with a cricket stump and the other officer hit me with a cane. I was told to admit to thievery. I said that I didn’t know anything about any theft. They continued to hit me. Then petrol was put into a polythene bag and poured out, after which the polythene bag was tied onto my face. I was told that if I didn’t tell the truth, I would be burnt. I was hit for about one hour more. I was told to get off the bed and to keep jumping, but because I did not jump high enough, the OIC hit me with a pole. I said that I didn’t know about any thefts.

“Then the OIC said that, ‘No one knows you have been arrested,’ and called out, ‘Let’s kill him.’ He told the others to hang me from the ceiling beam. My hands were swung behind my back and my thumbs tied together with a string, then they put a rope between my thumbs and hung me from a ceiling beam. One officer pulled the rope so that I was lifted from the ground. When I was lifted, my hands were twisted at the elbow and they became numb. The OIC kept hitting me on my legs and soles with the cricket stumps. He hit me on my thighs, and asked me who my friends were.

“Because of the unbearable pain I gave him names and said, ‘Though I didn’t do any thefts I am willing to admit to anything.’ The OIC said, ‘That won’t do. Till you tell us about all the thefts you have done, one by one, we will keep you hanging—we will tie a stone to your legs.’

“After that I admitted to every theft they told me about, one after the other, just to escape this unbearable situation. The police officers then told me that they would take me to a jewellery shop at Ambathenna. I was told to say that I had stolen two rings and a chain. After about half an hour, four police officers put me along with another person in a jeep and took us to my friend Saliya’s house. Saliya was brought to the jeep. He asked me why I did all this but I didn’t say anything. We were all taken to Ambathenna. The police pointed towards a person and told me to say that I had given the stolen items to him. I was again threatened that I would be hung up by one hand. I did as I was told. Although I didn’t know the person at all, that person was also taken to the police station with Saliya and me. I later learned that another friend was also brought to the police station.

“I was brought before these persons and asked whether they had also engaged in the robberies. Because of fear, I did not dare to answer. They told me that I could be made a state witness if I said that the other two had committed the thefts, but they said I was not to tell anyone that they had tortured me. If a doctor asked me, I was to say that the handcuffs damaged my hands. I was told that if I mentioned anything about the torture there would be trouble in the future. The OIC said that ‘Everything is in our hands’ and ‘Don’t get things messed up’.

“On July 27, Upali, my friends and I had our fingerprints taken. After that, we were made to sign in the middle of a page among four or five empty pages. At about 6pm we were all taken near the

Ankumbura Government Hospital and while we waited in the jeep, officers went in and brought some papers back to us. We were not taken to the doctor.

“We were later taken to the magistrate’s official house. The police told the magistrate something and then we were taken to the Bogambara prison, where Saliya and Upali were detained. Three others and I were taken to the remand prison at Rajaveediya.

“When I was admitted to the prison I informed the prison authorities about the injuries I had suffered at the hands of the police and requested treatment. I was given some tablets but no medical examination was done. I was also not kept in the prison hospital.

“On July 28 my mother was finally able to meet me there. I was released on bail on July 30.

“On July 31, I was admitted to the General Hospital in Kandy and was under treatment for six days. The doctors told me that due to the torture the damage to my left arm is likely to be permanent. When I went to the police post of the General Hospital of Kandy to make a complaint about the torture, the request was refused and I was told to make the complaint at the Ankumbura Police station. On August 11 I was readmitted to hospital, and told that I will have to have an operation to try to correct the injuries caused by the torture.”

Chamila and his family were forced into hiding after they made complaints about the case, and filed a fundamental rights application in the Supreme Court. The case also received enormous publicity in Sri Lanka. A local human rights organisation protected Chamila. The alleged perpetrators meanwhile coerced local criminals into intimidating the family, and police directly threatened Chamila’s mother.

The alleged perpetrators attempted to fabricate a case against Chamila and forced some boys to testify that the victim’s injuries were caused by a fall. Chamila attended the UN Human Rights Committee session held in Geneva at the end of October 2003 as part of a delegation from the ALRC and the World Council against Torture. When the Human Rights Committee met the delegation, Chamila narrated his case to the Committee. On the next date of the session, the Committee inquired about Chamila’s allegations with the Sri Lankan government delegation. One of the delegates stated to the Committee that the allegations were completely false. The basis of this statement was a report filed by the Kandy Area Coordinator of the HRC. This report was compiled without even taking a statement from Chamila or his family, and without referring to the medical certificates.

The AHRC immediately demanded that the chairperson of the HRC dismiss the area coordinator without delay. The HRC then reopened the inquiry and named its Director of Investigations as the inquiring officer.

A further inquiry was initiated into the conduct of the Kandy Area Coordinator. Shortly thereafter, several local human rights organisations took exception to the manner in which the reopened inquiry was being conducted.

Thereafter an independent inquirer, Dr Irvine Jayasuriya, was appointed to conduct both inquiries. The OMCT organised for a specialist to examine Chamila while in Geneva. The doctor concluded that the injuries he had sustained were consistent with his allegations of torture. Fortunately, the doctor was able to report that Chamila was likely to be able to make a recovery due to his youth and good health. Had such torture been inflicted on an older person, it is almost certain that the injuries would have been permanent, as suggested by the doctors who did the initial examination.

#### **47. Bandula Padma Kumara and Saman Kumara: Tortured for allegedly stealing a bunch of bananas**

Chamila Bandara was not the only child being tortured by the police at Ankumbura between 20 and 28 July 2003. Bandula Padma Kumara and Saman Kumara, two brothers aged 14 and 17 respectively, experienced similar treatment from the same police. On July 20, Bandula was arrested for allegedly stealing a bunch of bananas. After his arrest, his mother was refused access to him. His brother was arrested at home at about 7pm on July 22. Both boys were kept at the police station until July 28, when they were remanded in custody because of a magistrate order after police fabricated cases against them through confessions obtained through the use of torture.

The torture included hanging by the thumbs and pulling on their legs, and a practice cynically described as dharma chakka ('Wheel of Law'; a Buddhist doctrine). In this method of torture, the victim's arms are tied to the knees so the body forms a circle; a pole is inserted between the arms and body and the person is rotated on this while being beaten on the soles of the feet. The boys were later released on bail.

#### **48. S.P.Wijekone: Seven-year-old tortured over shop theft**

At about 4:30pm on 29 July 2003, OIC Wijeratne and two other policemen of Polipithigama went to the house of seven-year-old Wijekone Mudiyansele Sujith Priyantha Wijekone, in a vehicle belonging to the Polpithigama Multi Purpose Cooperative Society, and looked for him. Sujith's mother was not at home, so the OIC sent someone to bring her to the house. After she arrived, the OIC said that he wanted to take Sujith to the police station because he had broken into a cooperative shop and stolen some goods. His mother protested, saying that he was innocent, but the OIC told her to bring her son and his sister to the police station before 7 am the next day.

As she could not refuse, the mother took her two children to Polpithigama police station the next day. A constable questioned the children until 1pm. Then the OIC took Sujith into his room alone. His mother heard her son scream, but was helpless. The OIC kept Sujith for about one hour. Later Sujith told his mother that the OIC had beaten and threatened him. In the afternoon the police took Sujith and his sister in a police vehicle and searched for a 13-year-old boy called Aruna. After

arresting Aruna, the police released Sujith's sister. At about 7:30 pm they put Sujith and Aruna into a cell. When Sujith's mother protested the treatment of her son, the police turned her away.

On the morning of July 31, Sujith's mother came to the police station again and saw Aruna's family there also. OIC Wijeratne told them that he would release the two boys if they would pay for the goods stolen. They refused, and at about 3:30pm went to an attorney. After the attorney intervened, the OIC agreed to bring the two boys before the magistrate at Mahava. At midnight the magistrate released the two boys on bail.

#### **49. Udayanga Perera: Torture victim continues to be victimised three years after incident**

On 7 August 2003, Udayanga Perera, an 18-year-old schoolboy at the time, was arrested and subjected to severe torture by policemen attached to the Wewelwatte police post. As a result, Udayanga suffered injuries to his ear and had to be warded for several days at the Ratnapura hospital. Later, he lodged a complaint regarding the incident to the relevant authorities, including the HRC.

Udayanga says that the Ratnapura police then fabricated a false charge against him and several others before the Ratnapura Magistrate's Court (Case No. B1318/03; 54821), namely, for causing minor harm to a policeman. Subsequently, the police officer in charge (OIC) of Wewelwatte police post then allegedly told Udayanga that the police were willing to withdraw the case against him in exchange for his withdrawing his own complaint before the HRC. However, Udayanga refused any such suggestions, and as a result, the case was referred to the Mediation Board on 21 January 2004 for possible settlement.

When the case was called on 22 February 2004, Udayanga refused to settle the case, and thus the Mediation Board sent the case via the police back to the Ratnapura Magistrate's Court. However, for the next two and a half months, the police mysteriously failed to forward these case documents to the court, though clearly required to do so by law.

This was an unacceptable situation to Udayanga, who was anxious to clear his name and move on with his life. Therefore, on 28 August 2006, he forwarded a motion through his lawyer to the court, requesting that his case be called up before the court.

The Ratnapura Magistrate's Court has since called the case four separate times—i.e. 18 September 2006, 16 October 2006, 29 November 2006, and 17 January 2007. However, the case was unfortunately postponed on each of these dates due to the non-appearance of the complainant (the police). The magistrate then issued a warrant for the arrest and production before the court of the accused, but according to Udayanga, the police are deliberately shirking their responsibilities in executing this warrant, despite the fact that the complainant has been seen in the vicinity. Udayanga claims that this purposefully caused court delay was a further attempt by the police to harass him.

Therefore, Udayanga once again complained to the IGP, Attorney General, NPC and HRC about this extremely unsatisfactory state of affairs and furthermore, demanded that the Ratnapura police act in accordance with the law and proceed with the case.

#### **50. Kurupanawa Gamage N.: Beaten and framed**

Around 7-8pm on 17 August 2003, officers of the Udugama Police station arrested Kurupanawa Gamage Nihal near Kondalawatta Bridge while he was going to the lake for a bath. Six or seven people wearing civilian clothes came and asked whether he was Nihal or not. Even before he answered, one person later identified as SI Wijekoon immediately began to assault him with a pole, until the pole broke and Kurupanawa was on the ground. Then SI Wijekoon and other officers continued by kicking his legs, face, back and other parts of his body, breaking his nose and causing bleeding from his nose and face. Although Kurupanawa's brother arrived on the scene and pleaded for the police to stop, they did not do so.

After the police took Kurupanawa to Udugama Police station he continued to bleed constantly, so three officers took him to Udugama District Hospital. The doctor who examined him advised that he be hospitalised immediately. Kurupanawa was admitted to the hospital and two police officers remained with him.

While there, SI Wijekoon and another officer from Udugama station forced him to put his thumb print on a bottle and also forced him to sign some documents. They did not explain what the documents were about and Kurupanawa was only semi-conscious, thinking at that time that he was dying. The next day two police officers forced Kurupanawa to leave the hospital and go with them to a magistrate. The magistrate ordered him to be remanded for 14 days, but Kurupanawa did not even know the charges against him. When he was brought to the prison at Galle, he asked the prison officers to be sent back to hospital for medical treatment; however, they ignored his complaints.

On August 21, Kurupanawa's relatives succeeded in bailing him out. He then went back to the Udugama District Hospital. The doctor who examined him told him that his condition was serious and that he should be hospitalized immediately. He was admitted to the Teaching Hospital at Karapitiya and discharged on August 27, after being advised to get further treatment. According to the medical report given by the JMO K.I Premathilaka, Kurupanawa had the following injuries to his head:

1. 3cm horizontal lacerated injury on the left side of the parietal region 3cm from the mid line and 11cm above the left ear
2. Bilateral black eye below the eyes

3. 6cm circular in swelling on the left parietal region

The family complained to the ASP of Udagama.

### **51. Garlin Kankanamge S: Custodial death and body buried in hope of second post-mortem**

Garlin Kankanamge Sanjeewa, a 25-year-old soldier, was going home on 27 August 2003 when officers of the Kadawatha police station arrested him on allegations of robbery. The next day he was dead in a cell. The police claimed he had hanged himself with the belt of his trousers. However, Garlin's mother said that her son's feet were on the floor of the cell when she saw his hanging body, although the sketch made by police does not show his death this way. She also claims to have seen blood flowing from the lower part of her son's body, and a wound on one of his arms. The family insisted that a proper and impartial inquiry be held and a second inquest take place because they do not accept the post-mortem conducted in the police station. On September 1 they buried the body in a private garden out of fear that the police would come to try to take it and destroy the evidence of their actions.

As Garlin was a soldier, the military police conducted an inquiry into this case. In their report, a copy of which was issued to his mother, the inquirers cast doubts about the police version of events. Despite this report, the police authorities are not known to have undertaken any further inquiry into the case after interdicting the two police officers on duty at the time for negligence over the alleged suicide.

### **52. R.M. Loku Banda: Found dead in prison cell**

Around the same date as Garlin lost his life, 60-year-old R.M. Loku Banda had a dispute with two villagers about a road construction. Police from Maturata station intervened and took Banda away. He was later found dead in his cell. Although the reason for his death has not yet been revealed, local human rights groups alleged torture. His son complained to the authorities and the family lodged a fundamental rights application in the Supreme Court.

### **53. M. Riswan, S. Ravichandran & A. Latief: Beaten with a brick and broomstick**

On 30 August 2003 at about 12:30pm, 23-year-old Suppaiya Ravichandran was driving a motorised trishaw carrying 23-year-old Mohamad Ameer Mohamad Riswan and 30-year-old Abdul Karim Mohamad Roshan Latief. A van containing about six plain-clothes police officers from Wattala station stopped them. The police forced the men into the van, blindfolded them and took them to the police station.



At about 7pm, several police officers, particularly SI Navaratne, severely assaulted the men. The assault continued during the next day, and that night they were taken to the office of the DIG North Colombo at Peliyagoda, which is the police headquarters for the area.

There a senior officer assaulted the men on their legs, stomachs, chests and hands, and forced them to confess to involvement in a robbery, about which they knew nothing. When the men pleaded innocence the officer assaulted them with a brick, and when he beat Riswan on the ears with the brick, the victim began to bleed from the nose.

After the brick broke into pieces, an officer from Wattala brought an old broomstick, which the senior officer used until it also broke. All the men suffered severe injuries, especially Latief, who was continuously assaulted for about 30 minutes. He was also stabbed with the broken end of the broomstick and was bleeding from the chest. Latief was again attacked the following night, and he alleged that he was tortured while hung from a beam.

On September 1 the men were brought back to the Wattala Police station, where they were locked up. They were given only some water while in the cell.

That evening, their family members came to the police station to see them, as did three officers of the HRC, after receiving a complaint from the family. They took written statements and also noted their injuries. They ordered the police to produce the men before a JMO, and the police obliged.

After the JMO's examination, the victims were produced before a magistrate, from whom the police obtained a detention order so as to investigate alleged involvement in the drug trade. However, throughout the torture the police reportedly never questioned the men about such activity. Rather, it was only after the HRC visit that SI Navaratne told the men that since they complained to the HRC they would be implicated for possession of narcotic drugs. The men have since been charged with theft, and drug-related offences, which they deny. Latief and Riswan have since filed fundamental rights applications in the Supreme Court.

#### **54. Hikkaduwa Liyanage S.: Innocent boy endures week of agony**

Hikkaduwa Liyanage Sandun Kumara, aged 16, had to leave school after his father's death to support his family, and started work at a factory owned by one Piyasena in early August 2003. However, he later left this work and went to Ampara.

On 10 September 2003, Sandun's aunt was informed that the Rathgama police were looking for him. He came back home and went to the Rathgama police station on the morning of September 12. The police questioned him until 3pm and threatened him to reveal the whereabouts of stolen goods, about which he knew nothing. Then they released him and told him to come back the next day.

At about 1pm on September 13, Sarath and Bandula Silva, family members of Piyasena, came with their brothers to the Sandun's house, to take him to the police station. They told him it was only to

record a statement and promised to return him within an hour. However, they took him to Piyasena's house instead, and called the police station saying that they had caught the thief.

After that, at around 3pm they brought him to the Rathgama Police station, and handed him over to SI (Crimes) J.T. Ramyasiri. Sarath and Bandula Silva, their brothers, and some police officers took Sandun to the backyard of the police station. SI J.T.Ramyasiri held him by his t-shirt collar and lifted him off the ground, demanding he reveal the whereabouts of stolen goods.

He kicked Sandun's legs and dropped him onto his back. Then he trampled him with his shoes, and hung him up on a tree by the waistband of his trousers before dropping him onto the ground. While the police assaulted Sandun, Bandula Silva spoke to the police inspector. After that, at about 5pm Bandula and Sarath Silva and their brothers took Sandun together with some officers in civilian clothes to Piyasena Mudalali's house.

There they served alcohol, cigarettes and food to the police. While they were drinking, the police officers assured the brothers that they would get the lost items from Sandun. Then they threatened him, saying that they knew what to do to him if he did not tell them the whereabouts of the stolen goods.

All of them returned to the police station at about 6:30pm. The police took the victim to a cell containing beds with iron railings and handcuffed one of his hands to one. They gave him some food, but no water. The next day, September 14, the police took Sandun to another small building further away from the backyard of the Police station, where there were beds and a bathroom. The officers ordered him to remove his clothes and applied chilli powder to his genitals while he begged them to stop. After that, they wrapped his head and face with his t-shirt and poured water on it, suffocating him.

They held the t-shirt for about one minute and repeated it about four times at two to three minute intervals. After that, they freed his hands and ordered him to face the wall. They then beat his back, buttocks and legs with their hands and wooden sticks. After assaulting him, they put him back in the cell, where he was handcuffed to a bed again.

At about noon, the police officers took Sandun to a cemetery in front of the navy camp at Boosse, near his home, and ordered him to dig a grave. Then they immersed him in a water pit. Bandula and Sarath Silva and their brothers were present in their white van nearby. Sandun was brought back to the police station at about 1:30pm and was cuffed to the bed again.

Several police officers took turns assaulting him with hands and wooden sticks. At about 4pm, the police took him inside the small building again, removed his clothes, repeated the suffocation torture, and assaulted him.

On September 15, the police repeated the torture. He was also dragged along sandy cement floors until his feet were bleeding. That evening, Sgt Silva and another officer took Sandun to the beach

behind the Police station and ordered him to run. They threatened to shoot him, and then assaulted him with a stick while he was handcuffed.

The assaults continued into September 16. At about 12:30pm on September 17, the victim's mother was permitted to meet her son for the first time since he was taken into police custody. She noticed how he walked with great difficulty, had a black eye, and his skin below the ankles was swollen and red. His elbows and knees were wounded, and he could sit only on the edge of the chair. After seeing her son's serious condition, she requested the police to provide him medical attention, which was denied. That evening, Sgt Silva hit Sandun's head against a wall, and struck his ears with his shoes about five times. He also kicked and trampled his legs.

The police produced Sandun in court on September 19, and then sent him to the Kithulampitiya Remand Home. The officers of the remand home admitted him to the Karapitiya Teaching Hospital on September 21, where he was treated and discharged, but readmitted on September 23 because of severe headaches, chest pains and hearing loss. On September 24, Sandun was produced in the Galle Magistrate's Court and released on bail. His family filed complaints with the HRC, NPC and in the Supreme Court, which has ordered the NPC to investigate. However, after making the complaints they received death threats.

#### **55. Dawundage P: "It is good that you came, otherwise I would have been killed"**

At around 10:30pm on 1 September 2003, about six police officers from the Saliyawewa police post in Puttalam, dressed in civilian clothes, came to the house of 14-year-old Dawundage Pushpakumara's sister and threatened to shoot their cousin, Nishantha, if Pushpakumara did not go with them. They grabbed his neck and pushed him into their van, where he saw four bottles of liquor.

According to Nishantha, the police officers went to Pushpakumara's house from the house of one Jayathilaka, where they had drunk liquor and threatened to shoot Nishantha if he did not show them Pushpakumara's house. Inside the van several police officers assaulted Pushpakumara, telling him to confess to stealing a gold chain. They took him to Saliyawewa police post and threw him into a cell.

Then they tied his hands behind him and hung him on a beam, and the OIC and several others assaulted him. Then they put him in a room full of ants with his hands still tied. When his parents went to police station to see their son, they saw Pushpakumara hanging from a beam with his hands tied behind him with a fibre cord. His mother asked an officer to get access to her son, but a police officer told her that the OIC was not there and to come the next day. Meanwhile about ten to fifteen persons claiming to be the owners of the chain came to the police station and threatened to get the police to harm her son if he did not return the chain. The police officers did not react against any of the threats made against them.

The next morning, Pushpakumara was allowed to speak with his mother and sister, and he showed them his wounded hands, legs, head and chest. He added, "It is good that you came last night, otherwise I would have been killed." The OIC asked Pushpakumara whether he took the chain and he said no. Then the OIC allowed him to go home with his mother. After Pushpakumara went back home, he complained of headaches, and fainted. The next morning the General Hospital of Puttalam admitted him.

On September 5 the police officers told the mother and sister that Pushpakumara was not a thief and the real culprit had been arrested. The police officer told them to remove Pushpakumara from the hospital and asked the supposed owner of the chain to give one thousand rupees to the mother. Then two police officers and the owner of the chain took the mother and sister to the General Hospital, Puttalam at about 7-8 pm. There, the police forced Pushpakumara to leave the hospital, fearing that a medical record of his injuries could be used against them in court.

Pushpakumara fell very ill at home, and the next day a person told him the thief was going to be released and that he would be re-arrested, so he should go back to the hospital. However, due to police pressure the hospital would not admit him. Attempts to get help from the child welfare office also failed for fear of the police. A human rights organisation reached the family and tried to take the child to a hospital outside the area. The National Child Protection Authority was informed of the situation and took Pushpakumara to a hospital in Colombo, where he was treated.

Meanwhile, a complaint was filed on his behalf in the Supreme Court. The family came under severe pressure from the police to stop making complaints. Police officers of the Saliyawewa police post, as well as prominent politicians, threatened to burn the family's house if they pursued the matter. Pushpakumara was taken under the protection of a local human rights organisation and his parents were forced to flee their home, fearing for their lives.

## **56. C.P.S. Anthony & C.J. Lafaber: Victims of dispute over plastic cups**

On 5 September 2003, 29-year-old technician Conganige Pradeep Surendra Anthony and 23-year-old hairdresser Christopher Junius Lafaber were helping a friend, Anthony Jurie, manage his stall at a church fete. At about 10pm two drunken officers from the Mutwal Police station came to the stall to get two plastic cups. When a dispute broke out over the cups, the police abused and slapped Jurie, and asked him, 'Are you selling these cups to the police?'

Jurie then went to Mutwal Police station with his son, but the officer there refused to record a complaint. After that, he went at about midnight to Police Headquarters in Colombo Fort to lodge a complaint. Meanwhile, Anthony and Lafaber stayed at the stall. After Jurie had gone SI Sujith Ganganath and three other officers drove up to the stall and arrested the two men without charging them or explaining anything. They took them back to the police station and began to beat them with hands and feet. The two men asked why they were being beaten, but the blows just continued until they couldn't stand any longer. SI Sujith Ganganatha then hit Pradeep's nose with the handle of his

pistol, causing bleeding from both nostrils, after which he was told to go and wash away the blood. The two men were then put in a cell.

At about 3am the police took Anthony and Lafaber to a DMO in Ragama, who instructed the police to admit Anthony to a hospital. They then took the two men to the Accident Ward of the National Hospital in Colombo. Lafaber was kept in the vehicle, while Anthony was taken inside and X-rayed, but brought back despite advice by doctors that he should be kept in the hospital, as his nose was fractured. The two men were brought back to the Mutwal Police station, and when family members came they were told that the men were not there and chased away.

At about 1pm on September 6 the police took Anthony and Lafaber to a magistrate at Hulftsdorp and fabricated a story about a clash between the two men and some other persons who escaped—hence the men’s wounds. The two men were released on bail, after which they went to complain at Police Headquarters. On September 24, ASP Nanayakkara held an inquiry into the complaint, and took statements from all three of the men involved.

#### **57. Okanda Hevage J: Beaten to death over 284ml of alcohol**

On 5 September 2003, Okanda Hevage Jinadasa, a 50-year old mason and father of five, was returning home by bicycle after work. Two civil personnel attached to the Okkampitiya police post stopped him and searched his belongings. They found two packets of illicit liquor, equalling 284ml. They beat him and brought him to the police post, where they reportedly beat him again with fists and posts, squeezed his testicles, and strangled him until he died. Police personnel took his dead body to the Okkampitiya government rural hospital, pretending that he was unconscious. A doctor examined the body and pronounced that he had died before arrival.

The police said that Okanda fell from a chair and died. The Monaragala Magistrate who held the inquiry on September 7 ordered the body to be sent to Karapitiya [Galle] Teaching Hospital for an autopsy. The JMO who did the autopsy reported that he found injuries on the body caused by blunt weapons. But he further stated that Okanda’s death was not due to these injuries, and reserved his decision on the cause of death till further investigation was completed.

#### **58. Raman Pillai K.: Robbery victim tortured**

On 6 September 2003, unidentified robbers attacked 42-year old Raman Pillai Kesam Nayar Ashokan while he was carrying the money from the till of a wine store where he was working as cashier. The robbers put him inside a van and used some chemicals on his face, which made him unconscious. When he regained his consciousness, Raman found himself inside a police jeep. Around 8:30pm, he was brought to the Katugastota police station and was questioned. He told the police that he was robbed.

Around 9:30pm his employer arrived at the police station. After the owner talked to the police for about 10- 15 minutes, the police accused Raman of stealing the money and assaulted him while asking questions. Then they put him in a cell, and later took him to a doctor at Katugastota hospital, and then to the DMO. After examining him, the DMO said that a chemical like chloroform had been used on him, and that the police should take him somewhere with better facilities for an examination. However, the police brought Raman back to the station and returned him to a cell.

According to Raman, the police then took him upstairs and removed his clothes. They ordered him to lie down and blindfolded his eyes. Then, they beat him hard with something that felt like a cane or a pole. The police kept asking him whether he took the money, and where he put it. They threatened to push him down from upstairs and kill him.

One officer told him to tell the truth while hitting his soles and feet. Then the police forced him to jump up and down. They also told him to carry a police officer and walk stamping his feet heavily on the ground. After that, a police officer hit his nose with a baton. He again forced the victim to lie down and three civil personnel sat heavily on his back, while the police again hit him on the soles.

Later, the police put Raman back in a cell. Then they forced him to sign a statement about which he knew nothing. They took him to a magistrate, who ordered that he be remanded. While in remand, he had difficulties breathing and had severe pain in his back and soles. He was bailed out only on September 16, and received medical treatment at a private clinic on September 17 and 18. However, his condition became worse and he was hospitalised at the Peradeniya General Hospital on September 22. While in hospital, his family received threats from some unknown persons.

### **59. Hikkaduwa Liyanage Sandun Kumara: Hung from a tree and dropped to the ground**

In September 2003, a 16-year-old boy, Hikkaduwa Liyanage Sandun Kumara, was arrested by the Ratgama Police over false charges and was subsequently tortured. He was arrested over allegations he stole an item which he knew nothing about. The police kicked his legs, dropped him on to his back and trampled him by his shoes. They also hung him up to a tree using his trousers waistband before dropping him to the ground.

### **60. Dope Pathiranalage L.: Hung by the thumbs**

On 22 October 2003, police attached to Bentota police station brutally tortured Dope Pathiranalage Lasantha Priyankara, a 33-year-old labourer and father of two.

At about 1:30pm that day, he had gone to the police station to inquire as to why some police had come looking for him. When he asked the OIC why he was wanted, the OIC, SI Silva and two other policemen took him to a back room without any explanation. At the time, all of them were wearing civilian clothes.

As soon as they entered the room, all of them started to assault Dope. They used a cricket bat, wooden clubs and a rubber hose. While they assaulted him, they kept asking him whether he had broken into a house and stolen some goods. As he denied this, the OIC and others stripped him, tied his thumbs together and hung him up by them. While in that position, all four policemen assaulted him again. He repeatedly stated his innocence—even in that position—and then the police brought him down, untied him, and threatened to kill him. The OIC pressed his trousers and T-shirt to Dope's face, until he was nearly suffocated. When they failed to get a confession, the police twisted his arms behind his back, tied his thumbs together and hung him up again. They renewed their assault, and SI Silva started to stab Dope's belly with a broken bottle. They continued this until he fell unconscious.

After that Dope was taken to a rural hospital several kilometres away, bypassing Bentota Government Hospital. He was given a saline injection and brought back to the police station. Then the OIC told him to go back home. Dope told them that he could not even move, and showed them blood still coming from his wounds. Then the police took him to the Bentota Government Hospital. While he was in the police vehicle, the OIC went inside and spoke with the DMO. After some time, the OIC brought some medicine and gave it to him. Then the police told him to get out of the vehicle and go home. He went back home with great difficulty, after which his family took him for treatment.

#### **61. Bamunuarachchi Pathiranalage S.: Hung from the ceiling**

At 10:30am on 1 November 2003, two police officers in civilian clothes from the Kuliyaipitiya Police station arrested Bamunuarachchi Pathiranalage Sathkumara at his friend's house. The police did not give any reason for his arrest. On the way to the police station, they collected a woman whom Bamunuarachchi recognised as living nearby his friend's house.

At the police station, the officers took Bamunuarachchi into a room and ordered him to remove his shirt, belt, and wristwatch. Then they started to beat him severely with a wooden pole. They asked whether he had broken into a house and stolen some goods, of which he knew nothing. Later he found out that a burglary had occurred at the woman's house. The police ordered Bamunuarachchi to lie on the floor and beat the soles of his feet hard for ten minutes. After that, they put his hands behind his back and hung him from a ceiling beam by a nylon rope. Officer Pushpakumara and another policeman then swung him for 45 minutes, causing extreme pain to his shoulders and arms. After he was removed from the beam, the police officers ordered Bamunuarachchi to jump up and down and run outside, which caused him great pain after the torture.

After that, a policewoman took Bamunuarachchi's money and bought some medicine for him. He was released at 6:45pm, at which time they warned him not to go for hospital treatment, lest records of his injuries be produced. Nonetheless, his brother took him to the Kuliyaipitiya Hospital and he was kept there until November 4. While there, the police officer on duty at the hospital took a

statement from him about the torture. A JMO also examined him and took a report. His brother also made a complaint to the DIG Kurunegala.

### **62. S.L. Kulathunga: Public outcry after custodial death**

Three officers in civilian clothes, led by Sgt G.W. Siripala, arrested and beat 29-year-old Samarathunga Liyana Arachchige Kulathunga on 10 November 2003 at the front of his family house in Nivithigala, for ‘indecent behaviour’. Kulathunga was taken to the Nivithigala police station, where he was reportedly assaulted and suffered serious head injuries. However, PC Sugath claimed he was injured when jumping from the police jeep on the way to a medical test.

On November 11 they admitted him to Wathupitiya Base Hospital. When local people heard about the assault, it provoked a huge outcry. Thousands of persons gathered around the police station, cut down trees, barricaded the road and burnt tires to express their anger. Around one thousand persons also gathered at the hospital. However, Kulathunga was transferred to the National Hospital in Colombo, where he died of his injuries on November 12.

On November 13 Kulathunga’s father told the Additional City Coroner M. Ashroff Rummy that his son had been savagely beaten in front of him. He claims that around 6:30pm on the day of the arrest he heard his son shouting to someone not to kill him, at the front of their house. “I saw two policemen beating my son on his head and neck. Thereafter they bent him and hit him on his back,” he reported. “When I attempted to save him a policeman beat me on my shoulder and I ran away in fear.” Around 15 other villagers witnessed the attack, including his brother; however, they did not assist Kulathunga out of fear that they would also be assaulted.

### **63. Nishantha Kumara: Fifteen-year-old beaten for failure to locate illicit alcohol seller**

At 11:30am on 3 December 2003, four officers from the Department of Excise came to 15-year-old Nishantha Kumara’s house in a cab. One officer called Nalaka was in uniform, and the others were in civilian clothes. At that time Nishantha was at home for lunch after working in the paddy fields. The officers immediately handcuffed him and asked him whether he knew a person called Chutte, an illicit alcohol seller. The officers accompanied Nishantha to search for Chutte. However, they could not find him. Then the officers took Nishantha to a nearby forest, and on the way there, the officers beat him. They then put his hand on a stone and pounded it.

After that, Nishantha was brought back to his house, by which time his father was there. The officers then took both of them to the forest, and Nishantha’s father was forced to take a barrel to the place where the cab was parked. Then the officers forced Nishantha and his father to sign some forms, about which they knew nothing. Nishantha’s aunt, who came to see him at that time, also had to put her signature on the forms. After that, the officers threatened to charge Nishantha with



possession of illicit alcohol if somebody did not come to certify the forms. The officers also threatened to take Nishantha's aunt if they were unable to appear before the court.

Nishantha was admitted to the government hospital of Pimbura on the same day. He was discharged after three days, although his hand had not yet healed. He has lodged a complaint with the police; however, they have not taken any serious steps to investigate this case.

#### **64. S.J. Pallekanda: Accused of car theft**

On 6 December 2003, officer Hemantha and other police from the Katugastota police station came to the house of P.M. Hemapala in Pallewatta, Pitawala, Nawalapitiya, and searched for his 22-year-old son Shiron Jeewantha Pallekanda. As he was not at home, they took his photo from the house and told his father to sign a statement, the contents of which they did not explain. Then they told him to bring his son to the station on December 7. He replied that his son could not go because he had been told to report to the Kekirawa police station on Sunday. The officers told him to bring his son in the afternoon. Pallekanda went to report to the Kekirawa police station at about 11am on December 7, with his father. The police kept him until 7:30pm, on request of the Katugastota police. Around 7:30pm the police from the Katugastota arrested him on suspicion of vehicle theft, and took him back to their station. His father followed them in a lorry, and then went home.

The next day, December 8, when Pallekanda's brother went to see him around 4pm, he found that his brother had been severely beaten. He came back home and informed his father, who arrived at the station around 7:30am the following morning, December 9. His son told him that he had been severely beaten and vomited as a result, after which he had been taken to a private doctor but not given any proper treatment. The police told the father that they could not produce Pallekanda before a magistrate because their investigation was incomplete.

An hour later, he came back to the station with a lawyer, and the police promised the lawyer that they would produce the victim in court on December 10. The father came to visit again around noon, and an officer told him that his son had been taken into a room to record a statement. Then the father heard his son cry out.

After Pallekanda came out, he told his father that the police were beating him in the room. When the father complained, the officers threatened him that they would remand his son if he came to the police station again. At the time of the Urgent Appeal being issued, Pallekanda was still in custody.

#### **65. Jayasekara Vithanage S.: "I will make sure that you will no longer have a normal sex life"**

On 7 December 2003, Jayasekara Vithanage Saman Priyankara, a 32-year-old poultry farm owner and father of two, went to Matale Police station after being called by the officer assigned to his village. The officer told him that there was a complaint against him by some local authorities

regarding the dredging of sand for his new house. However, the concerned personnel did not come to the station, and eventually the officer asked him some questions and told him he was doing nothing illegal. He then had Jayasekara buy a bottle of glue and two pens, and give Rs. 500, after which he prepared a document and gave it to Jayasekara to sign, while assuring him it would end the matter. Although Jayasekara did not understand the document, he signed it out of fear and with the assurance that he could continue to dredge the amount of sand he needed. Then the officer told him that he would come to the village on December 13, at which time Jayasekara could dredge the sand. Jayasekara went home, and on December 13 dredged some sand as he was assured he could, and noticed the police officer in the village.

However, the officer then approached him and told him to stop dredging at once, to which Jayasekara replied that the officer had told him he could do so. After that, the officer began hanging about at the front of his house, and out of nervousness Jayasekara called the ASP Matale to inform him that he was being intimidated. The ASP asked him to come to the office to complain. When, at around 5pm, a group of officers from Matale Police station arrived at the house by jeep, Jayasekara's wife told them that her husband had gone to the ASP's office to lodge a complaint. One officer asked about the details of the complaint, and she explained. The officer then spoke to the Police station using the house telephone, and stated that the problem was only about sand dredging, and not about a theft. After that the police left. At about 4:30pm on 5 January 2004, SI Panagoda, a sergeant, and three other officers in civilian clothing from the Matale Police station arrived at Jayasekara's home. They entered the house and told Jayasekara that they needed to take him to the Police station. When he asked why, he was given no reason and nor was he charged. Instead, SI Panagoda hit him on his cheek and back, handcuffed him and told him to get into the jeep.

When they arrived at Matale Police station, the police took Jayasekara, still handcuffed, into SI Panagoda's room. There, SI Panagoda told the officer assigned to Jayasekara's village to plug in an electric kettle. After some time the officer came back with a large jug of boiling water and a small cup. SI Panagoda approached Jayasekara and told him that they would take revenge on him for arguing with their colleague, and while ordering him to tell the truth began pouring the boiling water very slowly down his right leg. While doing this, the officer pouring the boiling water told Jayasekara that he would see to it that he would not have a normal sex life in the future. The water in the jug took about 10 minutes to finish, during which time Jayasekara begged the officers not to go on with the torture.

After that the officer assigned to his village removed the handcuffs and put him in a cell, where he removed his sarong and checked the burns. Then Jayasekara saw that the whole of his thigh was covered with blisters. The policeman then gave him a bottle of medicinal oil and told him to apply it to the wound. After that, Jayasekara was left in the cell for the whole night, during which time he was given no food, water or other medication.

At around 12:30 pm the next day, January 6, Jayasekara was taken from the cell and told to leave the police station by the rear door. There, SI Panagoda warned him not to report the incident or seek medical help for the wound, or he would be killed. He also said that the police would keep a watch

on him, and visit his home often to check. Jayasekara went home, and out of fear complied with the police instructions. The officers also followed through with the warning, visiting his home several times in uniform, and a number of other times in civilian clothes. Finally, at around 12:30pm on January 20, SI Panagoda himself and another officer came looking for Jayasekara at a time that his mother was conducting an alms giving. Jayasekara hid in the house, and SI Panagoda called out that but for the alms-giving event, he would not have spared Jayasekara that day.

After that, Jayasekara made a written complaint to the ASP's office, and approached a photographer to document his wounds. On January 21 he went into Kandy General Hospital, where he was treated and examined by a JMO. On January 22 he complained to the Kandy police station while on his way home, and on January 30 the ASP called him to his office in Matale on January 31 to take a statement. The NPC Officer in Kandy also investigated the case and, according to its chairman, has "initiated necessary action" against three police officers. Jayasekara filed a fundamental rights application in the Supreme Court on February 2.

#### **66. U Kekula Ratnayake: Another incident involving the misuse of power by the Mahiyangana police**

The Asian Human Rights Commission (AHRC) has received another case involving the fabrication of charges by the Mahiyangana police. The victim, belonging to the Adhivasi (indigenous) community was illegally arrested and falsely charged because he insisted on speaking the Adhivasi dialect when the police questioned him. In Sri Lanka, many minority populations do not speak Sinhala (the majority language) fluently.

After struggling with the case for over two and a half years, the victim was acquitted by the court on 11 July 2006. However, no disciplinary and legal action has been taken against the Mahiyangana police till date. On 26 December 2003, Mr. U Kekula Ratnayake of Dambana, received a police message that instructed him to visit the Mahiyangana police station in connection with a complaint made by a village postman. The postman was angry at a media story that reported that he illegally opened mail that was addressed to the Adhivasi (indigenous) community and pilfered all the monetary donations contained in them. He suspected Kekula was the media's source.

When Kekula went to the police station, he was wearing a traditional garb carrying a short mamoty (sharp agricultural implement) on his one shoulder. When the police began to question him, he insisted on speaking his traditional language, the Adhivasi dialect that the police could not understand. In Sri Lanka, many in the minority populations do not speak Sinhala (the majority language) fluently.

After failing to coerce Kekula to speak in Sinhala, an irate Officer-In-Charge (OIC) of the Mahiyangana police arrested this poor man and charged him with a fabricated criminal offence in revenge. Kekula pleaded not guilty and his case which was heard before the Mahiyangana Magistrate's Court over a period of about two and a half years (Case No: 19989).

For the first year, Kekula retained the service from a local lawyer, but realised soon that no progress was made in the case and there were repeatedly delays in the court dates. Kekula reported that the local lawyer apparently had no intent on antagonising the local police.

Kekula then sought the assistance from Janasansadaya, a local human rights organisation located almost 200 kilometers away from his residence, who then retained a Colombo-based lawyer on his behalf. Finally on 11 July 2006, the Magistrate gave an order acquitting Kekula of all charges against him.

After the court judgment, Janasansadaya wrote to the relevant authorities including the National Police Commission (NPC) of Sri Lanka, Inspector General of Police (IGP), the Deputy Inspector General (DIG)-Legal Section and the Human Rights Commission of Sri Lanka to take immediate disciplinary and legal action against the errant Mahiyangana police, including the OIC for the illegal arrest and fabrication of charges against Kekula, as well as the mental pain and harassment caused to him.

However, no serious action has yet been taken against the responsible police officers to date. In fact, this is not the first case of fabrication of charges on innocent people committed by the Mahiyangana police. The AHRC has previously reported the case of Mr. A.M. Thilak Adhikari, who had been falsely charged by the Mahiyangana police in December 2004 after refusing to pay a bribe to the Officer-in-Charge (OIC) of traffic. He had also been acquitted of all charges against him on 11 July 2006 (See further: UP-154-2006 and UA-06-2005).

No action has been taken against the responsible officers in this case as well. The AHRC urges you to write to the relevant authorities urging that those responsible should be punished immediately according to the law. Your intervention in this case will help break the Sri Lankan police's deeply rooted practice of illegal arrest and the fabrication of charges.

**67. Ashoka P. Kumara, Saman Puspakumara, N. Ratnayaka, W.P. Piyadasa, Nilantha K.Rajapakse, Chaminda Sureshkumar, U.N. Jayantha Premalal & S. Niyamaka: Victims of New Year's revelry**

On 31 December 2003 four policemen in civilian clothes from the Gokarella police station came to Baddegama village in Madahapola and sought information about illicit liquor. They approached 20-year-old Ashoka Pradeep Kumara and 17-year-old Saman Puspakumara and asked, "Where do you get illicit liquor?" When the men said that they don't, the policemen severely assaulted them and took them to their vehicle, later abandoning them. The two were hospitalised in the rural hospital at Polgolla, but the following day, 1 January 2004, they were forcibly dismissed. Saman was admitted to Kandy Hospital on January 6. According to the doctor's examination, his lower abdomen was damaged and he was complaining of dizziness due to blows on the head. The doctor recorded his statement describing torture by the police.

In the meantime, at about 5pm on December 31, Saman's mother went to the Gokarella police station to lodge a complaint. When she met OIC Janaka Manapperuma, he said that he was not aware of the incident. There were over 200 people at the police station having a New Year party. Most were policemen, retired policemen and their friends. Most were also drunk.

Among them was IP Weeraratne, who is a suspect in a pending murder case who has nonetheless stayed on in the police service. Under his leadership, most of the people at the party went to the village. Arriving at the village, this group of some 200 policemen and their supporters mercilessly assaulted the villagers with poles and cycle chains. They went inside the only shop and destroyed its contents. The villagers could not resist because the policemen were armed with rifles. The OIC came later with the torture victim's mother and saw what was happening, but could not stop the assault. Five persons were seriously injured during the attack: R.M. Newton Ratnayaka, a 29-year-old amputee, was pushed to the ground and trampled; U.N. Jayantha Premalal was also beaten on the stomach and shoulders; Nilantha Kumara Rajapakse was seriously injured in the right ear; W.P. Piyadasa, aged 70, was dragged along the ground, causing serious injuries to his knees, hands and face; and Chaminda Sureshkumar was also wounded.

The police arrested Premalal, Rajapakse, and one S.A. Somaratne, and charged them with obstructing police actions against illicit brewing. However, the people in the village had in fact been conducting an anti-drug and anti-alcohol campaign, and had themselves organised many activities to prevent thefts and other social problems in the village. After arresting the three men, the police took them to a private medical centre at Ibbagamuwa. The doctor who examined them told the police that Premalal and Kumar should be admitted to hospital. However, IP Weeraratne took all three to the Gokarella Police station and locked up Somaratne before taking the other two to the rural hospital at Polgolla, in Ibbagamuwa. The next day the police produced Somaratne before a magistrate and remanded him at Kegalle Prison.

However, the doctor at Polgolla did not want to admit the two injured men as their conditions were serious and the hospital not equipped for such cases. She gave the hospital ambulance and requested the police go to the Teaching Hospital in Kurunegala. The men were taken under guard and admitted. On January 1, Premalal was operated on, but Rajapakse did not receive proper treatment. On January 2, the Kurunegala Magistrate came to the hospital and ordered the men remanded at the Prison Hospital in Kegalle. On January 8 all three appeared at the Kurunegal Magistrate's Court and were granted bail. The next hearing will be held on 25 March 2004.

After being released, Premalal re-entered the Teaching Hospital at Kurunegala. Rajapakse went to Colombo to have his ear examined.

Meanwhile, after the arrests, 25 villagers and the abbot of the Buddhist temple had gone to the police station to ask for the men to be released. The police allowed only three people and the monk to go inside, and only the monk could speak to the OIC. The OIC told the monk that if he had any complaints he should refer the matter to the ASP, who had just arrived for the New Year party.

However, the ASP said that he had come for a celebration, not to entertain complaints, and promised he would come to the village with two typewriters at 11am the following day to inquire into the incident. Unfortunately, he did not keep his commitment. The villagers went to the Police station again to lodge their complaint, but the police did not take any action. After this the villagers selected five representatives to report the incident to the NPC and HRC in Colombo, and officials from HRC came to investigate.

However, because of this visit and media attention, the police at the Gokarella station came to the village and threatened people to withdraw their complaints. They also stopped the bus service to the village.

### **68. Tennakoon Mudiyansele G.: Beaten over a missing bicycle**

On the evening of 31 December 2003, Tennakoon Mudiyansele Gunesekera, a 39-year-old waiter and father of three, was sleeping in front of the Chandrasena Hotel after work. Around 10:30pm six drunken policemen attached to the Mahiyanganaya police station came to look for a policeman's bicycle parked near the hotel. When they could not find it, they woke up Tennakoon and questioned him. When he could not answer, they surrounded him and severely assaulted him with wooden bats. When he fell to the ground, they trampled him.

The following evening, 1 January 2004, Tennakoon's wife found her husband lying on the ground in the marketplace. She later went to Mahiyanganaya police station to lodge a complaint, but the police tried to hush up the case by offering her Rs. 500, and refused to record her complaint. Tennakoon was hospitalised in Mahiyanganaya and his statement taken by the police officer on duty at the hospital, at the request of the DMO. His ribs were damaged due to the attack. A local human rights organisation helped his wife send letters to the NPC, HRC and DIG-Uva.

## **2004**

### **69. D.G. Premathilaka: "It's you we're searching for!"**

Around 8:30pm on 8 January 2004, D.G. Premathilaka and his wife went to buy some biscuits for their little daughter from the local shop. On the way, someone shouted, "It's you we're searching for!" and suddenly some people started to assault him. He was hit hard on the head and face, then pulled into a van and driven away, while his wife was by the roadside.

The next morning, January 9, his wife received a call that her husband was at the Katugastota Police station. She sent her brother there to get the facts. Upon arrival, he saw Premathilaka collapsed on

the floor in the remand cell. After signing a paper, he could bring his brother-in-law home. According to Premathilaka, some of the police had severely assaulted him at the station.

That afternoon, the family admitted Premathilaka to the Kandy Public Hospital. However, about 1:30pm the next day, January 10, the hospital forcibly discharged him, saying he had no serious injuries, even though he complained of a severe headache and inability to move his neck. There were also some wounds on his legs and arm. After being discharged, he was admitted to the Peradeniya Hospital. Speaking to a local human rights group, Premathilaka explained that he had previously been involved in illegal liquor sales, but had left the business. After he gave it up, the police were angered that he no longer was paying the bribes necessary to conduct such business and fabricated charges against him. According to Premathilaka, they were further angered when he pleaded innocence in court, and the attack seems to have been punishment.

### **70. Koralaliyanage P: “This is where your heart is and I am hitting you so that you will die in two months”**

Koralaliyanage Palitha Tissa Kumara is a prominent artisan and 31-year-old father of two engaged in restoring two houses in Galle Fort in their original 17th century style. He took leave from this work on 2 February 2004 and returned to his house at Halwala, Matugama that night.

About 8.30am the next day, February 3, a police jeep and Pajero arrived at Koralaliyanage’s house. There were four officers in the jeep and six officers in the Pajero. SI Silva got out of the Pajero and called for Kumara. He told him to come to the Welipenna police station and help to make the police emblem for Independence Day celebrations on February 4. Koralaliyanage put on his shirt and came out as instructed. But when he reached the Pajero, SI Silva took his pistol and hit him on the chin three times, drawing blood. Then he booted Koralaliyanage’s back and told him to get in.

Koralaliyanage was pushed underneath a seat, and the car proceeded. The two vehicles went to the house of Galathara Don Shantha at Galathra junction. Galathara was also brought out of his house, and put in the jeep. Several other young people were picked up on the way back to Welipenna police station.

After arriving at the police station, the police took Koralaliyanage to SI Silva’s room, and he was told to sit on the floor. The other persons were taken to the cells. A little later, Galathara was brought in and made to sit opposite Koralaliyanage. Then SI Silva took a cricket stump and started hitting Koralaliyanage repeatedly, between the shoulders.

While hitting him, he told Galathara, “Look—this is how the others will also be treated.” He pulled up Koralaliyanage and kept hitting him hard all over his body. Then he told Koralaliyanage, “Give us the bombs, give us the weapons, and tell us about the robberies you have committed.” Koralaliyanage said he knew nothing about weapons or bombs, and begged the officer to stop

hitting him. However, the beating went on for possibly two hours, and in that time Koralaliyanage recalls being hit about 80 times, on all parts of his body, soaking his clothes with blood.

The blows were at times so forceful and wild that the officer also hit and smashed an electric bulb on the ceiling. Throughout this time, Galathara was watching in terror. Koralaliyanage noticed that he had involuntarily urinated on seeing the manner in which Koralaliyanage was beaten up. After this, other officers became concerned at the relentless beating and savagery of the attack.

Another came in and said to SI Silva, “Are you trying to kill this man? Stop hitting him.” However, he did not stop. Then the officer left and came back with about eight other officers, and one of them pulled the cricket stump out of SI Silva’s hands.

At this stage SI Silva left and came back with a person named Sarath who, according to him, had tuberculosis. The officer forced Koralaliyanage to open his mouth and had Sarath spit into it, telling Koralaliyanage that he would also get tuberculosis and die. Koralaliyanage pleaded not to do this, saying that he would catch the disease and spread it to his wife and children, but to not avail. On seeing this, the officer who had already intervened brought a bottle of water and told the petitioner to wash his mouth. At this stage Koralaliyanage began to lose consciousness. After a while, he found himself in a cell. There, at a later time the same officer brought a mattress for him to sleep on, but about 30 minutes after SI Silva showed up took it away.

Koralaliyanage was kept in the cell for about three days. In that time he often vomited, and could not eat or drink. He could not even urinate in the corner hole, despite attempts by Galathara, who was locked in the same cell, to help him. Each time he tried to stand up, severe pain in his right ear caused dizziness and disorientation.

On the third day, SI Silva came and told Koralaliyanage to get up, raise his arms and bend down. Koralaliyanage found it very difficult, and so the officer punched him in the chest about 13 times, and once in the face.

While punching him he said, pointing, “This is where your heart is and I am hitting you so that you will die in two months.” On another occasion, SI Silva came and handcuffed Koralaliyanage to a bar of the cell door, and then pulled the door up and down, injuring his wrist.

During these three days, Koralaliyanage’s wife was able to visit him, on February 4 and 5, and give some medicine to treat his wounds. The officer who had earlier intervened in his case also brought surgical spirit. Also, on February 5, 40-50 persons were brought to the police station at various times and shown the detainees. Two cameramen in civilian clothes also came and took separate photographs of the detainees.

On February 5, the third day of detention, some other officers took Koralaliyanage to Itthapana District Hospital. The doctor who examined him refused to admit him because his injuries were too serious. The police brought him back to the station and then again took him to the hospital, to be examined by another doctor, who also said he could not be admitted there. After that the police



took Koralaliyanage to the Wetthewa Government Hospital, where he was likewise refused admission. But while there, a lawyer came and met him and talked to the police officers, after which he followed them back to the station. The lawyer demanded the police bring Koralaliyanage before a magistrate, and waited for some time at the station. However, eventually he came to the cell and told Koralaliyanage that it did not seem that the police would bring him before a magistrate and because of other commitments he had to leave.

That night SI Silva came back to the cell and took a grenade out of its packing. Then he pulled Koralaliyanage's hand through the bars and took his thumbprint with warm ceiling wax, which he in turn he planted on the grenade. He took down Koralaliyanage's personal details and came back with a statement that he forced him to sign, without explaining anything of the contents. He also fingerprinted Koralaliyanage.

In the morning of February 6 Koralaliyanage was again taken to Wetthawa Government Hospital, but he received no treatment and was kept handcuffed while the police went to get a signature on some documents from one person there. Then the officers brought him back to the police station.

At about 5.30pm he was taken to an office in the Magistrate's Court of Matugama, where he was produced with several others before an acting magistrate. Koralaliyanage told the acting magistrate that he was severely assaulted and that his thumbprint had been planted on a grenade, and asked for medical treatment. A lawyer appearing on his behalf requested that he be examined by a JMO, which the acting magistrate duly recorded.

After the hearing, Koralaliyanage was taken to Kalutara Remand Prison and admitted to the prison hospital. On February 10 he was again brought before a magistrate, and on February 12 he was taken to a JMO at the General Hospital of Colombo. Several doctors examined and noted his injuries, took X-rays and photographs. The JMO has instructed that he be brought for further examinations.

Two cases were filed against Koralaliyanage, for possession of a grenade and for robbery.

Meanwhile, he has lodged a fundamental rights application in the Supreme Court.

### **71. D.G. Athula Saman Kumara: Taken from the marketplace**

On 16 February 2004, a group of police officers came to the wholesale market at Katugastota, in Kandy, where D.G. Athula Saman Kumara was carrying out his business, and took him to the Katugastota police station. His wife went to see him in the evening of the same day and found that her husband was severely wounded because of torture conducted by the police officers. Kumara told his wife that the police did not give any reason for his arrest, or make any record. Later that night, his wife went to see him again, and saw her husband suffering in great pain, caused by the torture.

At the time of this report, Kumara was still in detention with his full circumstances unknown. His wife has lodged complaints with the HRC and NPC in Colombo and sought urgent intervention to get medical treatment for her husband.

### **72. Bellanavithanage S.Y.: Shot dead while investigating a family quarrel**

On 22 February 2004, four officers of Baduraliya Police station led by SI Dammika went to investigate a complaint of a family quarrel at the house of Ayasha Damayanthi, the sister of 22-year-old Bellanavithanage Sanath Yasaratne. Finding no one at the house, they were returning to the station when they saw Yasaratne at a shop. Recognising him, PC Suriyaarachchi approached him to question him about the complaint. While investigating him, PC Suriyaarachchi reportedly started to beat Yasaratne hard with his truncheon.

The victim tried to escape the blows by running away. Another officer fired two shots and Yasaratne fell in the street. According to the many eyewitnesses, the police abandoned Yasaratne and did nothing to help him.

Later, his brother and several other people took him to the Wattaewa Hospital. However, he died while being transferred to the General Hospital in Colombo.

A post-mortem inquiry by the JMO at Nagoda Hospital confirmed that the death was caused by gunshot. The victim's family wanted a full inquiry. However, they feared that the perpetrators would attempt to create a false story to avoid liability for the death.

### **73. Dehiwatte Gedera Jayathilaka: Accused of possessing illicit liquor**

On 9 March 2004, policemen led by SI Bandaranayake, who is from the Yatawatte Police Security Barrier under control of the Mahawela police station, arrested Dehiwatte Gedera Jayathilaka.

Seeing Jayathilaka standing at a bus station, the police accused him of possessing illicit liquor and took him to the Mahawela police station. At about 6:30 that evening, Jayathilaka's son, D.G.S. Rupakumara, was informed by the Mahawela police that his father was in custody, and was told to come and bail him out. When the son thus went to the police station, Jayathilaka told him that the police brutally assaulted him and he was suffering from severe pain all over his body due to torture.

The son signed the bail form and Jayathilaka was released around 11pm. They left the police station in a three-wheeler. On the way home, the victim asked his son to buy a bottle of wine, saying he wanted to have a drink to relieve the pain in his body. The son obliged, though he also wanted to take the victim to see a doctor. Jayathilaka said he would go to hospital the next morning. Because their house was located in a hilly area, Jayathilaka got out of the vehicle and walked towards the house, while the son parked the three-wheeler nearby. When the son got home his father was not

there, but thinking his father had gone somewhere nearby, he went to sleep keeping the front door open.

However, on the following morning, a neighbour, Somawathie, found Jayathilaka's dead body in front of his house. His son rushed to the Mahawela police station to lodge a complaint about his father's torture and resultant death. But, according to him, the police did not properly write down his statement. The same day, people of the village gathered in Mahawela Town to protest against the OIC and SI Bandaranayake of the Mahawela police station for causing the death of Jayathilaka. The victim's body was taken to the Kandy Hospital for the post-mortem examination and returned to his house on 11 March. The JMO in Kandy who examined the body certified at the inquest that the victim's ribs were broken and there were bruises found all over his body. It was also reported that funeral arrangements of Jayathilaka were undertaken by the Mahawela police. A fundamental rights application was filed before the Supreme Court.

#### **74. Muthuthanthrige Chamal Ranjith Cooray: Died just after release from police custody**

Muthuthanthrige Chamal Ranjith Cooray was arrested on 17 April 2004 on suspicion of theft and died in custody two days later, allegedly as a result of police torture. At the time of arrest he was a resident of Egoda-uyana, Moratuwa, and a labourer at a timber sawmill. On this fateful day, it is reported that two persons named Felix and Babu handed Cooray over to the Modara Police Post, accusing him of breaking open the till placed at the statue of St Mary and stealing the collection. At the police post the police had allegedly severely assaulted Cooray and taken him to the Moratuwa police station, where he was further tortured. According to an eyewitness, Dinesh, who was also arrested together with the deceased, the police had hit the victim on his head and brutally kicked him on the rest of his body with boots.

As a consequence of the onslaught Cooray collapsed unconscious, but the police did not afford him any medical treatment. The next day, Cooray had been produced before the Moratuwa Magistrate and remanded. On 19 April he was released on bail. Upon arriving home his relatives realized that he was in a critical condition and rushed him to the Panadura Government Hospital. But within half hour, and before they reached the hospital, he was dead.

The post-mortem was conducted on 20 April at the Panadura Government Hospital and the coroner reported that the victim's death was due to assault. However, Cooray's family opined that since they were very poor the chances of a fair and impartial hearing into the death of their loved one were slim. They were later informed that two persons responsible for Cooray's arrest, Felix and Babu, had been arrested and remanded for assaulting the deceased before handing him over. The deceased's family feared that the police were now shifting the blame on these two people in a blatant attempt to cover up their own excesses.

## **75. Senarath Hettiarchchilage Abeysinghe: Death due to ‘natural’ causes**

At the time of his death, Senarath Hettiarchchilage Abeysinghe was a Reserve Police Constable (RPC) at the Trincomalee police station. On 17 May 2004, Abeysinghe was found dead in his bed, and it was said that he had died in his sleep. The message of his death was conveyed to his wife, C.P.E. Pathirana, who was resident in Colombo at the time. The same day, Pathirana accompanied her father to Trincomalee. The inquest into the death was held the next day (May 18), during which Pathirana expressed her doubts about the cause of her husband’s death. She said that the deceased had earlier confided in her that he had been severely assaulted at the police station and admitted to the Trincomalee Hospital (from 23 to 29 April 2004). However, when she had inquired about the incident, he told her that he would give her all the details later. Pathirana complained that despite inquiries, no one had given her a plausible explanation for her husband’s sudden death. Some have told them that it was a death due to natural causes, while others stated that he had died due to drinking.

After the inquest, the victim’s body was brought to the Trincomalee police station and on the same day taken to Balangoda with police escort. The Trincomalee police had undertaken all funeral arrangements and the deceased’s wife was also paid Rs. 25,000 from the police welfare fund. The funeral was held on 20 May 2004 with police honours. Later, some policemen at the Trincomalee station informed the wife that the deceased was on duty even at the time of death, as he had not signed off. Then 10 days later when Pathirana opened the bag containing her husband’s belongings, she discovered some papers from one of his shirt pockets. Included was a photocopy of a letter sent by Abeysinghe (during his stay in hospital) to the HRC in Trincomalee to which a prompt reply had been sent by the HRC dated 28 April 2004 and signed by one V. Mathiyaparam. Pathirana also discovered the diagnosis report from the hospital issued on 29 April 2004, which indicated that Abeysinghe had been a victim of police torture.

The letter and medical reports provided reasonable grounds for suspicion in this case. Furthermore, Pathirana also said that her husband maintained a diary, but this could not be located, as the police had not handed it over to her. She also recalled that while he was alive, Abeysinghe had complained about problems with his Mess Manager, Jayathilaka. Also, in his complaint to the HRC-Trincomalee, he had mentioned that Jayathilaka had attacked him with a wooden stirrer used for cooking rice.

## **76. Madugoda Ralalage Don Saman Priyantha Gunaratne: Murdered by police**

M.R.D.S.P.Gunaratne was a businessman dealing in building materials. He conducted his business from the residence of his fiancée, who was the main investor in his business. She had been widowed earlier when her husband, a soldier, was killed in action. According to Guneratne’s fiancée, after her husband died, she was harassed by SI Silva of the Welipenna police station to enter into a sexual relationship with him, which she had refused. Notwithstanding this, SI Silva relentlessly harassed her by way of night visits to her home and other unsolicited approaches. She had complained to the police about SI Silva’s behaviour, but little or no action had been taken to stop him.

Meantime, she had developed a romantic liaison with Guneratne. Then on 30 May 2004, around 7:30pm, Gunaratne was brutally murdered, allegedly by two policemen of the Welipenna Police station. He was shot dead with a T-56 weapon while returning home in his vehicle. Eyewitnesses to the incident said that the two policemen had tried to escape after the shooting but that villagers had apprehended them and prevented their escape. After they were apprehended, the two policemen attempted to justify their illegal action saying that they were compelled to shoot the deceased when he refused to stop his vehicle as ordered.

They also said that Gunaratne was transporting illicit timber, but eyewitnesses said that his vehicle was empty at that time. At the inquest held in the Mathugama Magistrate's Court on 8 June 2004, the lawyer looking after the interest of the deceased's family brought the following to the attention of the Magistrate: a) The police version that the victim was transporting illegal timber was false; b) The two policemen were in civilian clothes; c) The two policemen were using a private motorcycle; d) They tried to escape after the shooting; e) The projectile removed from the head of the victim during the post mortem was handed over to the police and taken away by them without proper sealing; f) Though there were many witnesses to the incident who came forward, the police had not recorded their testimonies.

Despite these disturbing facts being brought to the attention of the court, the magistrate did not make any order or observations on them. An ASP was put in charge of collecting evidence at the inquiry. However, the victim's relatives were pessimistic about the impartiality of the police inquiry and were of the view that there was a blatant attempt to fabricate facts and justify the homicide.

### **77. Alagiyawadu Lakmal Chathuranga and L.P. Pradeep Kumarage: Pressure by Ambalangoda police on torture victims**

On 7 August 2004, police in civvies from the Ambalangoda police station arrested Alagiyawadu Lakmal Chathuranga, aged 15 and L.P. Pradeep Kumarage, aged 14, on the accusation of stealing a gold chain. The two boys were then taken to the police station without being accompanied by their parents, in violation of law.

The boys were then allegedly stripped naked and blindfolded at the police station, where they were brutally assaulted by the police officers with wooden sticks. The two boys were released on 9 August 2004, after their parents paid Rs. 3000 (USD 29) to the police and signed a dubious statement written by the police.

Later on the parents of the boys lodged a complaint against the concerned police officers to the IGP, NPC, HRC, Attorney General and others. The HRC began an inquiry into the incident, while the IGP referred the case to the Special Investigation Unit (SIU) whose officers had visited the victims' home and recorded several statements.

Meanwhile the alleged perpetrators started threatening the family of Alagiyawadu Lakmal Chathuranga to withdraw the complaint made against them. The mother of L.P. Pradeep Kumarage also made several complaints to the HRC of Sri Lanka, the NPC and the Attorney General regarding the threats made from the police authorities against her and her family.

Apparently, the HRC of Sri Lanka has conducted an inquiry into this complaint made by the victims' families. However, it seems there are no recommendations directed to the police authorities on this matter.

#### **78. Bamina Hannadige Gamini Fernando: No criminal action against two policemen after HRC confirms torture of a man**

On 2 September 2004, Police Sergeant R.W.W. Palihawadana (Police ID No.22488) and SI K.A. Padmasiri of Moratuwa police station arrested Bamina Hannadige Gamini Fernando. These two police officers, without a warrant or any evidence, arrested Gamini and allegedly inhumanly tortured him while in custody at Moratuwa police station. Gamini was stripped, hung and assaulted brutally with cricket stumps. As a result, his legs were swollen and his feet were cut and they bled. It was learned later that Gamini was accused of stealing some goods such as arrack and video cassettes. He was tortured in front of the owner of the allegedly stolen items. As there was insufficient evidence to prove his guilt, Gamini was allegedly tortured in order to force a confession from him.

On 9 September 2004, Gamini was brought before the Moratuwa Magistrate, and then remanded for several days at Welikada prison and Kalutara prison. On September 19, the court finally released Gamini as no complaint was brought against him. Gamini was subsequently hospitalized at the Nagoda General Hospital for medical treatment. His wife, K.U. Shiromi Dias, lodged a complaint to the HRC. After conducting an inquiry, the HRC found the two police guilty of breaching the basic rights of the victim.

On 28 March 2007, two-and-a-half years after the incident, the HRC finally recommended that the two perpetrators pay compensation of Rs. 12,500, that is Rs. 7500 from Sergeant Palihawardana and 5000 from SI K.A. Padmasiri, to the victim. The recommendation by the HRC was a clear indication of the lack of respect for, or understanding of, international norms and standards by the commission. It is quite simply an insult to the victims to declare a quantum of monetary damages of a little over a hundred US dollars for the use of serious torture.

#### **79. Rathnasiri Senadheera: Police investigation of a severe torture case drags on with no transparency**

SI Saliya, the then-OIC of the Horana Police station, on 29 September 2004 allegedly brutally tortured Rathnasiri Senadheera while he was visiting his brother, who was in police custody. After the incident, he complained to the HRC, NPC and Attorney General.

The HRC conducted an inquiry into the incident [No. HRC/5048/04/I(iv)] and on 4 July 2006 recommended that derisory compensation of Rs. 5000 (around USD 50) be provided by the

respondent, SI Saliya, to the petitioner (the victim). A copy of the recommendation was sent to the IGP, Attorney General and NPC for suitable disciplinary and legal action to be taken against the concerned SI. However, no action is known to have been taken.

Meanwhile, the police inquiry into Senadheera's case dragged on and on, and over two years after the actual incident, it had not ended. The victim suspected that the undue delay was caused by bias against him and bias for the police. He reported that the inquiry officer working on his case is the ASP in charge of supervising the Horana police station, where he had been tortured, and the prosecution officer is the Headquarters Inspector (HQI) of the Panadura police station, which is in the same division as that of the Horana police station. Considering the fact that the concerned SI was the former OIC of the Horana police station, it could only be assumed that the inquiry and prosecution officers are colleagues of the alleged perpetrator.

For example, Senadheera informed that on 4 September 2006 he received a letter requesting him, along with other witnesses, to attend a departmental inquiry conducted against the perpetrators by ASP Nagahamulla of Horana district. The inquiry was to be conducted at the office of the SSP of Panadura division at 10am on 11 September 2006. However, when Senadheera together with three other witnesses went for the said inquiry at 10 am, ASP Nagahamulla was not in his office and they waited more than 12 hours until 11:15pm. As the inquiry officer ASP Nagahamulla had still not arrived at the office for the inquiry. Senadheera and the other witnesses then left the police station. He says that he no longer maintains any faith in the police inquiry and wonders what justice can be expected under the current circumstances.

He complained to the SSP of the Panadura division, the IGP and the NPC regarding the negligent attitudes of the inquiry officer and also raised his concerns about the impartiality of the police inquiry with them; however, he had not received any responses.

#### **80. Herman Quintus Perera: Beaten for refusing to sell alcohol to police**

On 3 October 2004, the Polonnaruwa police allegedly killed H. Quintus Perera, a restaurant manager and father of two. According to the restaurant owner, as it was Poya Day—on which the sale of liquor was prohibited by law—he closed the liquor counter at his restaurant. However, two policemen arrived at his restaurant by motorbike and demanded a bottle of liquor. Perera, who was the manager, politely refused them, explaining that the liquor counter was closed. The policemen left but soon returned with a large contingency of policemen in a police jeep. They proceeded to beat up Perera and the other workers at the restaurant. Thereafter, the police forced Perera and his fellow workers into the jeep and took them away.

The following morning (October 4), the restaurant's assistant manager visited the Polonnaruwa police station to inquire after the well being of those who were arrested including Perera. The other workers told him that Perera was not with them in the cell. The assistant manager then visited the local hospital but could not find Perera. He then visited the mortuary where he found Perera's body.

The police authorities, however, told the local media that a fight had ensued when the police raided the restaurant - that they suspected the sale of illicit liquor and that Perera had been killed during the commotion. The Polonnaruwa Police - at whose hands it is alleged the deceased died - failed to confirm this story.

### **81. M. Ramson Peiris: Assaulted with a blunt weapon**

On 5 December 2004 around 2pm, 59-year-old carpenter M. Ramson Peiris went to one Malani's house to have a drink. Two police sergeants, Silva and Jayantha Perera of the Moratuwa Police, had been present there, and for no apparent reason, they severely assaulted Peiris and took him away to the Moratuwa Police station in a three-wheeler cab. At the station, they had resumed their brutal assault on Peiris. Later, the Deputy Mayor of the Moratuwa Municipal Council, D.C. Fernando informed the deceased family of his arrest. He had also inquired about the deceased arrest from the police, but the police now denied Peiris' arrest.

When sometime later the deceased Peiris' relatives visited the police station, they saw Peiris lying in a police holding cell. As he looked severely injured, the relatives requested the police to take him to the hospital for medical treatment, but the police refused. Then, around 10pm the same day, the Moratuwa police had taken the deceased to the Lunawa Government Hospital - without informing his family. They allegedly had given a false statement to the hospital that they had found the deceased on the roadside. As Peiris was in a critical condition, he was transferred to the Kalubovila General Hospital and later to National Hospital Colombo, where he succumbed to his injuries around 11:30am on 6 December 2004.

On 8 December 2004 villagers complained of the incident to the HRC of Sri Lanka and the deceased's son also complained to the HRC on December 13. The HRC had told the complainants to produce the post-mortem report to begin an investigation; however, these documents are usually not made public, even to the deceased's immediate family. And at the time of the AHRC's Urgent Appeal the HRC had not made a serious attempt to obtain this document.

Several days later, the non-summary inquiry into the deceased killing began in the Moratuwa Magistrate's Court. However, the deceased's family alleged that the Mt. Lavinia Police officer that was in charge of investigations into the incident was intentionally and constantly evading the said Magisterial Court inquiry. Accordingly they have been absent in court on five inquiry dates viz. on 13, 14, 15, 16 of December 2004 and 5 January 2005.

The JMO, who conducted an inquest on the victim's body, had earlier stated in his post-mortem report that the victim had been assaulted with "a blunt weapon" and the cause of his death was spontaneous intra cerebral haemorrhage. He further stated that the victim had multiple minor injuries on his neck, upper limbs and lower limbs, suggestive of blunt force injuries and evidence of high blood pressure. But the victim's family said that the victim had never taken any treatment for high blood pressure before.



In the meantime, Malani, who witnessed the victim's assault and illegal arrest at her house, gave her statement to the Mt. Lavinia Police and the Moratuwa Magistrate's Court. Despite such clear medical and other evidence, the Mt. Lavinia Police did not arrest the alleged perpetrators.

## **82. P.G.R. Jayasekera: Failure by state officials to release information and investigate the illegal arrest, torture and fabricated charges of a retired government servant by Hambantota police**

The Asian Human Rights Commission (AHRC) has received information regarding the illegal arrest and brutal torture of Mr. P.G.R. Jayasekera, a 56-year-old retired government servant from Ketandola, Ratnapura by the Hambantota Assistant Superintendent of Police (ASP), and the Officer-in-Charge (OIC) and a police officer by the name of Miskin from the Kataragama Police station on 22 December 2004.

To date all involved parties have taken little action in regards to this case and are taking great efforts to conceal any related information. On 22 December 2004, Mr. Jayasekera, together with two friends were on a pilgrimage to Kataragama when police arrested them. At around 9:00am that day, the Hambantota ASP and the OIC and police officer Miskin from Kataragama police confronted Mr. Jayasekera and his friends, placed them on a tractor, and took them to the middle of the Yala game forestry.

The next day three police officers brutally assaulted them whilst in the forest. It was during this assault that the police demanded information regarding a murder in the area. After this incident, Mr. Jayasekera complained to the police about his illegal arrest and torture. This angered the officers who then forcibly stripped him of his clothes and tied his thumbs together, hung him from a tree, and mercilessly assaulted him with poles and fists.

As a result, Mr. Jayasekera was rendered unconscious and later found himself at the Kataragama police station. That night, the Tissamaharama magistrate visited the police station and noticed that Mr. Jayasekera seemed to be injured and needed immediate medical attention. He suggested that the Kataragama police take him to the hospital. Per the magistrate's request, the Kataragama police took Mr. Jayasekera to the Kataragama hospital. However, after the medical attendants noticed that Mr. Jayasekera was passing blood with his urine and was in far too serious of a condition for them to help him, the hospital refused to admit him and referred him to the Matara hospital. Rather than following the advice of the medical attendants, the Kataragama police took Mr. Jayasekera to the Hambantota remand prison instead. A few days later, Mr. Jayasekera was transferred from the Hambantota remand prison to the Tangalle prison and thereafter to the Moneragala prison.

All of these institutions defied the Magistrate's order to provide the seriously ill Mr. Jayasekera necessary medical treatment. After he was transferred from Moneragala prison to the Matara prison, Mr. Jayasekera was finally admitted to the Matara hospital. About three months later, according to Mr. Jayasekera, he was acquitted from the charges against him. During the course of his trial, Mr.

Jayasekera fearlessly explained to the court the details of his horrific torture and lack of medical attention.

After his release, Mr. Jayasekera was able to receive treatment at the Ratnapura hospital. Our sources tell us that at the Ratnapura hospital, the Judicial Medical Officer (JMO) who examined Mr. Jayasekera requested medical reports on the victim from both the Matara hospital and the Hambantota remand prison; however, these medical documents have yet to be released. Mr. Jayasekera has complained to the Human Rights Commission and other authorities about his illegal arrest, his multiple instances of torture, the fabricated charges of murder, and three months in the Hambantota remand prison, but there has been little action to date regarding his case.

Our sources tell us that all involved parties, including the ASP from Hambantota police, the OIC and police officer Miskin from Kataragama police, and other police and prison officials are intentionally concealing information related to this case. Mr. Jayasekera's eye sight and hearing has been damaged due to the multiple instances of torture. He has also suffered from various physical and mental ailments related to his brutal encounter with the police.

## 2005

### **83. K Victor Fernando: Failure by police and other authorities to investigate the brutal assault of an elderly man**

The Asian Human Rights Commission (AHRC) has received information regarding the brutal assault of 76-year-old Mr. K Victor Fernando by Police Constable Ratwatte of the Panadura South police station on 13 February 2005, and the police's failure to take action in this case, despite a year having now passed.

On 13 February 2005, Mr. Fernando visited the Panadura South police station to complain against the harassment meted out to him by his neighbours, Monika and her children. He was accompanied by his daughter, K. Indrani Fernando and her husband, Ravindra Chandrasiri Dias.

When they arrived at the police station, PC Ratwatte, who was recording Monika's statement, shouted, "Get out, get out" at him. Then PC Rawatte approached Mr. Fernando and pushed him using force. He then pulled Mr. Fernando by his shirt and slapped his face so hard that Mr. Fernando fell to the ground. Then PC Ratwatte walked up to the fallen victim and kicked him viciously. PC Ratwatte then attempted to hit Mr. Fernando again even after his daughter and son-in-law intervened and escorted him outside of the police station.

When Mr. Fernando attempted to lodge a complaint regarding the incident he was prevented from doing so. On the same day (February 13), Mr. Fernando was admitted to the Nagoda hospital where he was treated for three days for injuries sustained at the police station. At the hospital Mr. Fernando complained about the assault to the doctors, hospital police as well as the Judicial Medical Officer (JMO). A few days later a Police Constable from the Panadura South Police station also recorded his statement.

About a month later, the Assistant Superintendent of Police (ASP) summoned Mr. Fernando. But when Mr. Fernando went to meet the ASP, the latter voiced his disbelief of the incident saying: “If you had been assaulted, you would have fallen down dead”. Later Mr. Fernando also complained in writing to the Human Rights Commission, the National Police Commission, the Inspector General of Police, the Attorney General and the Deputy Inspector General.

However, despite these complaints having been lodged and a year now having passed since the incident, the police have failed to investigate the victim’s complaint, charge the perpetrators in court or even institute a disciplinary inquiry into the matter. Only the National Human Rights Commission is conducting an inquiry into this case.

Unfortunately, Mr. Fernando’s case is not an isolated one whereby the police fail to investigate a complaint. The AHRC has reported several cases related to the refusal of the police to properly enquire into complaints lodged before them (see further: UA-21-2005 and UA-33-2001). This is hardly surprising given that the current procedure for lodging a complaint against the police in Sri Lanka involves reporting the incident to the very same Police station where the alleged perpetrators are based. This being the case, complaints are routinely ignored.

**84. S. D. Kodituwakku, A. B. Abeywardena, A. Ruwantissa and W. Shantha: Police severely tortured five men and subsequently filed fabricated charges against them.**

The Asian Human Rights Commission (AHRC) has received information of yet another case of illegal arrest, detention, brutal torture and the subsequent filing of fabricated charges against the victims on 28 February 2005. The arrest of victims S. D. Kodituwakku, who is a hotel owner, and his employees, A. B. Abeywardena, A. Ruwantissa and W. Shantha, was allegedly orchestrated by the Officer-in-Charge (O.I.C.) of the Dickwella police station in an effort to take over Kodituwakku’s hotel business for a local politician.

The four men were charged with illegal possession of firearms, which is a non-bailable offense in Sri Lanka. At the time of Kodituwakku and his employees’ detention, Kodituwakku’s younger brother, Sujewa, was arrested, detained and severely tortured by some policemen attached to the Tissamaharama police station. After the incident, the Judicial Medical Officer (JMO) submitted a report regarding the victims’ case.

A formal complaint was also filed at the National Human Rights Commission (NHRC). The complaints, however, have not shown any progress. We call for your intervention to ensure that an impartial and independent investigation into this case takes place. The charges against the five men in court must be dropped. If the allegations against the policemen involved are true, appropriate charges must be filed against them. Finally, please urge the NHRC to resolve the victim's complaint at the earliest possible time. Appropriate compensation must likewise be afforded to them. They must also be placed under a government-sponsored rehabilitation programme for trauma treatment. The government must comply with these requirements as stipulated in the Convention against Torture Act of Sri Lanka.

**Name of the victims:** S. D. Kodituwakku, A. B. Abeywardena, A. Ruwantissa, W. Shantha and Sujeewa Kodituwakku

**Alleged perpetrators:** The Officer-in-Charge (O.I.C.) of the Dickwella Police station and several policemen attached to the Tissamaharama police station

**Date of incident:** 28 February 2005 and several subsequent dates

On 28 February 2005, the victims, namely S. D. Kodituwakku, owner of a hotel named 'Tissa Village Hotel' in Tissamaharama, and his employees A. B. Abeywardena, A. Ruwantissa, W. Shantha, were arrested by the OIC of Dickwella Police station. The OIC is reportedly a relative of a politician whom S.D. Kodituwakku had a dispute with. It is alleged that the charges against S. D. Kodituwakku and his employees were fabricated by the OIC in an effort to take over Kodituwakku's hotel business for a local politician. While in police custody, the four men were allegedly severely assaulted. The hotel was also looted.

The Judicial Medical Officer (JMO) had already submitted a report regarding the injuries suffered by the victims. An inquiry regarding this incident and allegations of fabricated charges is pending before the Human Rights Commission. The four victims accuse the OIC of Dickwella police station of allegedly colluding with the brother of a politician to fabricate charges against them. It is said that the filing the charge of illegal possession of firearms against the victims, which is a non-bailable offense, is intended to hold them in prolonged detention.

The four men were released after the Court of Appeal granted them bail on December 22. While the four men were in jail, the younger brother of S. D. Kodituwakku, named Sujeewa Kodituwakku was also arrested, tortured and threatened with death. It is reported that the policemen threw petrol on Sujeewa's face.

The younger Kodituwakku is a student at the Peradeniya University. Sujeewa Kodituwakku filed a fundamental rights application against the eight police officers including the Officer-in-Charge (OIC) of Tissamaharama police station.

## **85. N. Sandasirilal Fernando: Left lying on the road by police**

According to the deceased's brother, Deepal Fernando, on 26 March 2005 a fracas had ensued at a neighbouring house and he went to intervene. Thereafter, a neighbour accused Deepal Fernando of stabbing him, an allegation that Fernando denied. The next day (March 27) the neighbour visited Fernando's house with two policemen from the Panadura police station. The police proceeded to arrest him and dragged him into the police jeep. At this juncture, the deceased saw his brother being taken away and, being under the influence of liquor, rebuked the police for arresting his brother. This apparently annoyed the police, who alighted from the jeep and hit the deceased on his back, neck and face. One policeman shoved him in his jaw. Losing his balance the deceased had fallen backwards, hit his head on the tarred road, and become unconscious.

The police, instead of attending to the victim and rushing him to hospital, simply left him lying there and proceeded to go with Deepal Fernando to the police station. On March 28, Deepal Fernando was released on bail and went home to find his brother in a critical condition. So he rushed the deceased to the Panadura Hospital where the doctors attempted to revive him. However, his condition deteriorated further and he began to vomit and lose control of his bowels. He was transferred to the National Hospital, Colombo but died a few hours later. The family complained to the HRC, the NPC and the IGP about the incident, but later decided against pursuing the matter for fear of reprisals from the police. They had received no information about any police investigation or inquiry into Sandasirilal Fernando's killing and neither had they been paid compensation. Sandasirilal Fernando was survived by his three school going children, aged 11, 14 and 17.

#### **86. J. A. Upendra Gayan: Failure of the police to investigate mysterious death of 23-year-old**

The Asian Human Rights Commission (AHRC) writes to raise its concern about a mysterious death of a young man and the possible cover-up by his father, who is a police inspector, surrounding the circumstances of the death. J. A. Upendra Gayan was 23-years-old at the time of his mysterious death on 2 April 2005. He had recently married Shakila Abeyssekera despite considerable opposition from his father, Samson Jayasuriya, a police inspector.

Upendra died at his boarding house, which he shared with another male friend, allegedly as a result of an exploding gas cylinder. Subsequently the police said that the body had been burned beyond recognition. Since her husband's death Ms. Abeyssekera has strongly suspected her father-in-law's involvement in the incident and that he was misusing his police powers to conceal vital facts pertaining to Upendra's death. Her suspicions had been aroused by the following incidents:

1. Mr. Jayasuriya had prevented the police from informing Ms. Abeyssekera about her husband's demise; therefore it was only after considerable delay that she learned of her husband's death.
2. Mr. Jayasuriya had with undue haste 'identified' the burned body as belonging to his son, conducted the funeral rites and buried the body.
3. There was no independent evidence supporting the alleged explosion of a gas cylinder.
4. Witness accounts note that a little while before the death occurred Upendra's friend and room mate, Inesh Manaheva had left the boarding house.

5. Although Inesh was arrested as a suspect in the case, the police soon after released him allegedly at the insistence of Mr. Jayasuriya and Inesh had since disappeared.

6. The police attempted to conduct the inquest by misrepresenting to the court that the deceased was unmarried. It was only when Ms. Abeysekera specifically brought this to the notice of the Magistrate that she was allowed to participate in the inquest proceedings.

The Magistrate ordered a DNA examination of the body. However, to date this has not been done and Ms. Abeysekera says that the police are intentionally shirking their responsibilities in complying with the court order. So much so that Ms. Abeysekera's lawyer is in the process of urging the court to issue another order for the DNA examination.

Regarding Inesh Manaheva, Ms. Abeysekera says that immediately prior to this incident, her husband had received several telephone calls to his mobile phone from Inesh. However, the Welikada police had given a wrong address for Inesh and thus the courts were unable to locate him. When this was discovered, the village head had obtained the correct address and visited his home only to be informed by his father that Inesh had migrated to Australia.

Ms. Abeysekera also says that soon after she requested the court for the aforementioned DNA report to be produced, she began receiving anonymous phone calls to both her home and office in which she was threatened not to pursue the matter any further, or that she too would meet with the same fate as that of her husband. Subsequently, she had traced the call as originating from Aitkin Spence Company in Colombo – the firm in which her deceased husband had been previously employed.

Though she has brought these matters to the attention of the CID who is in charge of investigations, to date no action has been taken by the police. Ms. Abeysekera then sought the help of Janasansadaya to officially complain in writing on her behalf to the relevant authorities to help bring justice to this case and to prevent the continuation of the harassing and threatening telephone calls. She is at a loss as to why the police have been so inactive in her husband's case and wonders whether the intentional delay is due to her father-in-law's intervention.

### **87. Don Wijeratna Munasinghe: Assaulted for failing to stop immediately**

D.W. Munasinghe had been returning home with his wife Sharma Lalini and 16-year-old son after shopping for the National New Year, when their three-wheeler vehicle was stopped by policemen from the traffic branch of the Maharagama Police station at about 5pm on 10 April 2005. At the time Munasinghe was driving the vehicle. One policeman had gestured to him to stop, which he failed to obey immediately. And though he subsequently stopped, because of the delay the policeman walked up to them and shouted "thamuse beelada?" (Are you drunk?) And then, when Munasinghe did not reply, screamed, "thamuse beerida?" (Are you deaf?) But yet he had remained silent. Seeing the policeman getting very angry Lalini had intervened and explained: "Officer, we

have just been shopping. While we were away, I don't know whether this man drank. But please let us go as we are returning from New Year shopping and also because my husband is not too well". But the policeman ignored her pleadings and shouted at Munasinghe to get out of the vehicle. He also made a call on his radio. A few minutes passed, and she saw two policemen walking towards them. One who was wearing badge No. 22728, pulled Munasinghe by his shirt collar, and slapped him hard across the face. Thereafter he continued to mercilessly assault him all over his body. Lalini said that she was very worried for her husband's health and pleaded with the policemen not to assault him as he was a heart patient, had suffered two previous heart attacks and also carried his medicines with him. But her pleas seemed to fall on deaf ears.

By now, a large crowd had gathered around. She had continued to plead with the policemen to spare her husband, but they simply chased her and the son away, pulled the three-wheeler to the side of the road and continued with the assault. Finally the policeman (No. 22728) kicked her husband on his spine, and when he fell onto the floor space at the back of the vehicle, the policeman sat on the seat, put his feet on his body and continued to kick and trample him, while another person drove the vehicle towards the Maharagama Police station. Early next morning at about 1:50am Lalini received a phone call from the Maharagama Police to come to the station in the morning and release her husband. At around 6:45am, the police called again and asked her to "immediately come and take her husband home". She rushed to the Police station but had to wait until the OIC arrived at 10:30am. The police then released Munasinghe on bail. Police officers also went to their home and handed over the three-wheeler to Lalini.

When he arrived home, Munasinghe explained the severe tortured he had endured at the hands of the Maharagama Police. He said the police assaulted him with cricket stumps all over his body. However, despite his serious injuries and unbearable pain, he was reluctant to go to the hospital out of shame as well as fear. And though his family treated him with paracetamol and herbal remedies his condition gradually worsened. Finally they persuaded him to seek medical treatment at a private clinic nearby and later at the Kalubovila Hospital Wards 26 and then 5. While in hospital Lalini saw a lot of dark blue marks on her husband's body as well as injuries to his hands, face, thighs, legs, and back. She also noticed a big bump on his head. When she visited him on April 16 he had been transferred to the Intensive Care Unit. The doctors had told her to speak to her husband, but he had not replied. Once he had shouted, 'water, water' but she doubted if he was really conscious at the time. Finally, when she visited him that evening, he was dead.

#### **88. H. L. Susantha Kulathunga: Daughters told they will not see their father again**

On 10 April 2005 around noon, five policemen of the Rakvana Police station located Kulathunga at a neighbour's house and arrested him. Apparently he was wanted by the police and had two arrest warrants issued against him. According to eyewitnesses, the police severely tortured the victim whilst he was being arrested and they presumably continued to do so all the way to the Police station as well as inside the station. On 19 April, two policemen visited the victim's house and told his two

daughters; aged 11 and 8, that they would not see their father again, so they had best go and visit him for the last time. On the same day, the police also approached the victim's mother and enquired about his whereabouts. When the mother replied that her son was in police custody, the policemen denied arresting him. The mother, however, insisted that they had taken him away.

On 20 April, Kulathunga's brother visited him in police custody and also gave him some food. Thereafter, the brother had left the Rakvana Station and caught a bus back home. However, along the way a motorcyclist had stopped the bus and urgently informed the brother that the victim had hanged himself whilst in custody. So the brother immediately alighted from the bus and rushed to the Police station, where he saw the deceased hanging from a strip of cloth (torn from his sarong) that was attached to the grill of his holding cell door. The brother also noticed that as the deceased was almost 6 feet tall, he was in fact, taller than the height of the holding cell; thus he was hanging with his knees on the floor and his hands at his back - a rather unusual position to commit suicide.

The police took Kulathunga's body to the Rakvana Hospital, but the hospital refused to accept it. Thereafter the body was taken to the Ratnapura Hospital where, on 22 April, the post mortem was held. According to the victim's sister, though the deceased was alleged to have committed suicide by hanging himself, the post mortem revealed no injury to his neck. Instead the post mortem report had revealed more than 107 injuries spread over all parts of the victim's body. On 21 April the victim's brother and sister also made complaints to the ASP, Ratnapura. The inquest hearing into the death began at the Magistrate's Court of Ratnapura on 27 April 2005. During the inquest hearing, the deceased's daughters gave evidence about policemen visiting their home on 19 April - while their father was in custody. In court they also identified the two policemen who visited them. Subsequently the children said that they were threatened by the policemen, who said that "you will suffer the same fate as your father if you mention us again".

When the case was called on 4 May, this fact was brought to the attention of the Magistrate, who warned the policemen against similar behaviour in the future. The victim's relatives also complained to the HRC of Sri Lanka, the NPC and the IGP.

### **89. R. Dammika Dissanayake: "We have sent him off"**

On 30 April 2005, R.D. Dissanayake together with his friends attended a musical show. According to his friends, they had all danced and enjoyed themselves at the show. Suddenly they noticed Dissanayake missing and looking around saw him being accosted by four policemen. One was holding him by his shirt collar while two other policemen were holding him and restricting his movements. The friends alleged that these policemen took Dissanayake away. Later one friend had queried from a policeman where Dissanayake was. The policemen had replied, "We have sent him off". According to the police report no. B1703/05 filed by the Kadawatha Police in the Magistrate's Court, Dissanayake's body had been found in a well near his home. The well had been approximately 20 feet deep and 7 feet in diameter, but the water level was only up to about 4-and-a-half feet. There was one bloodstain on a wall near the well and another bloodstain on the well wall.



The JMO examining the body had recorded 36 injuries - none of which were found to be fatal. However, based on the medical report, which stated the cause of death as 'drowning', the court too gave a verdict of 'death due to drowning'. However, Dissanayake's family and friends were deeply suspicious about his death and believed that the police had caused his death and then disposed the body in the well. They called for an official inquiry into the circumstances of the arrest, the injuries found on the body and how the body ended in the well. They also said that there was no evidence to suggest Dissanayake committed suicide.

### **90. Kosma Sumanasiri: Head repeatedly slammed against a wall**

On 20 May 2005, around noon, about five policemen of the Rathgama Police station walked into Kosma Sumanasiri's home allegedly on a tip-off that gambling was taking place at his home. Upon seeing Sumanasiri playing cards with three friends, the policemen arrested all of them. According to the victim's sister, Leelasili, who witnessed the incident, Police Sergeant Jayaratne assaulted her brother before he was taken away. Sumanasiri was produced before the Galle Magistrate that same day, but unable to pay the fine of Rs. 3000 imposed, he was remanded. The following day, on hearing that the victim and his friends were remanded, Leelasili and her elderly mother went to prison to see him. However, though they were able to meet with the others, they were not allowed to meet Sumanasiri. When they asked the friends where he was they replied that he was ill. They also said that while at the Police station, the victim had been brutally assaulted by the police who kicked him all over his body and repeatedly slammed his head on the wall. As a result, the victim had bled from his ears and fallen unconscious. They also said the police tortured him because he withdrew his finger when his fingerprints were being obtained.

Again on 23 May Leelasili visited her brother but the prison authorities insisted he was still unwell. When she visited the remand prison on 24 May, the prison officials told her that Sumanasiri had been transferred to the Intensive Care Unit (ICU) of the Karapitiya Teaching Hospital. Leelasili rushed to the hospital to see her brother in the ICU, and asked a doctor about her brother's condition. The doctor had replied that the victim was suffering from a brain haemorrhage and that "he was closer to the next world, than this world". On 27 May Sumanasiri was dead. On 2 June, the deceased's mother, Vitharana Varalishamy gave evidence at an inquest held at the Rathgama Magistrate's Court. Leelasili said that at the time of his arrest, her brother was in good health and thus the only reason for his untimely death was the inhuman torture meted out by the police. However, neither the Rathgama Police nor the prison authorities in Galle accepted that any ill treatment in their premises occurred. The prison authorities claimed that Sumanasiri was drug dependant and that he developed withdrawal symptoms while in the prison. According to them, the injuries sustained by the victim may have been caused as a consequence of an assault by fellow prisoners if not by a fall. In the meantime, a retrospective scene visit to the Galle prison was performed on 30 May.

An autopsy on the victim's body was also performed on 29 May and a report on the autopsy findings was afforded to the investigating authorities on 1 June. The Galle Magistrate called the JMO to give evidence on the autopsy findings on 15 June. Accordingly the autopsy report had stated that the cause of death was cranio-cerebral injuries and secondary brain injury with cerebral infarction. It said that there were injuries of multiple ages on the external examination and some superficial injuries were more than seven days old. The report concluded that the fatal injuries were to the head and that the musculo-cutaneous injuries observed were not compatible with a fall and would have most likely been caused by blunt force.

### **91. Lelwala Gamage Nandiraja: Police carrying guns and clubs**

On 29 May 2005 several policemen from the Weliveriya and Pitigala Police stations had arrived at Nandiraja's house at night. According to his sister two policemen were wearing uniforms, four others were in civilian clothes and they were all carrying guns and clubs in their hands. The police had knocked on the door looking for Nandiraja and when the sister asked them why they wanted her brother, they replied that they had come to arrest him.

When she told them her brother was asleep inside the room, they immediately entered the room and severely beat him all over his body. When his sister pleaded with them not to hurt him, they ignored her. Likewise, they did not respond when she asked where they were taking Nandiraja or what the charges against him were. (It was later discovered that the victim was suspected of stealing goods from a furniture shop.) A short while later, the police dragged Nandiraja naked and screaming from the house and took him away in a van.

The next day at about 8:30am, Nandiraja was reportedly rushed to the Gampaha District Government Hospital. However, it is believed that the victim might have already been dead at the time. His sister further said that when policemen from the Pitigala Police station visited her house that

evening to interview her and obtain her statement, they did not even bother to inform her about her brother's death. Instead, she only received the sad news of his demise on the morning of 31 May. The sister firmly believed that Nandiraja died as a consequence of being tortured by the police and said that he had no serious health problems that could have caused his death. She added that he had only a scratch mark on his forehead, when he was arrested.

### **92. Hettiarachchige Abesiri: Assaulted with cricket stumps and killed**

H. Abesiri was a hardworking daily paid labourer, who worked in a house of Ratnayake, a former police officer who had gone abroad and was due to return soon. One day, the lady of the house, Ratnayake complained to the Peliyagoda Police that she had lost her cordless telephone from her house. Hence on 13 July 2005 around 11:30pm a group of policemen from the Peliyagoda Police

station visited Abeysiri's house. He had been sleeping at the time, but the police awoke him and took him into custody saying that he was wanted for theft.

According to Abeysiri's elder sister, the policemen did not produce an arrest warrant but had slapped Abeysiri's several times before taking him in. Furthermore, except for the police driver, they had all been wearing civilian clothes at the time. The next day (14), the police took Abeysiri back to his house and his nephew saw that he was handcuffed.

The police then arrested Abeysiri's niece's husband, L.P. Asokakumara and demanded to know where the stolen good was sold. The police took the two men to Ratnayake's house and several people saw her slapping Abeysiri. The two were taken back to the crime section of the Peliyagoda Police station.

According to Asokakumara, at the Police station, the police brutally assaulted Abeysiri with cricket wicket poles for about half an hour. An SI had walked in together with another policeman and he too tortured Abeysiri. Asokakumara could not bear to watch because it was all too brutal, so he had moved away from the scene.

When he returned about half an hour later, he saw the four policemen in civilian clothes, carrying Abeysiri's lifeless body to hospital. Asokakumara was not tortured and the police recorded his statement and released him at 7:30pm. When he asked the police about his uncle, they said he was hospitalised because he was sick. In the meantime, around 5pm, a policeman had gone to Abeysiri's house and asked someone to go to the Peliyagoda Police station. When Jerome Allistace, a relative of Abeysiri, went to the Police station, he was informed that Abeysiri was sick and that the police had taken him to the hospital, where he died.

Thereafter, Allistace went to the mortuary along with several others. The AJMO, Dr. G.A.B. Abeysinghe of the Colombo National Hospital, examined the deceased body, and stated in his post mortem report that Abeysiri had not died of natural causes; instead his death was due to injuries caused by blunt instruments. Allistace had noticed several injuries on the deceased's body, including to his head and left leg. The victim's body was released to the family on 15 July and his funeral took place on the 17th.

### **93. K.D. Shantha Wijethileka: Arbitrary shootings and recklessness by the Opanayake police**

The Asian Human Rights Commission (AHRC) has received information regarding the case of Mr. Wijethileka who was shot twice in the back by two Opanayake police officers. The victim was running away from an unprovoked attack by the Opanayake police on a crowd of villagers who were looking at several valuable gemstones discovered in a gemming field. The police officers had aimed several gunshots and rounds of tear gas on the crowd of villagers. The villagers immediately took the severely injured Mr. Wijethileka to the Balangoda Hospital where he was later transferred to the

Ratnapura General Hospital. One of the bullets penetrated the victim's lung and he was hospitalised for more than 10 days.

Although complaints against the Opanayake police were recorded by the hospital police as well as the Judicial Medical Officer, to date no steps have been taken to investigate or inquire into the action of the Opanayake police. Furthermore, due to the serious nature of the victim's injuries he has been unable to lift any weight and this has severely impeded upon his livelihood. We request your urgent action in asking the Inspector General of the Police, to ensure that the Special Investigations Unit immediately commences an investigation into the alleged conduct of the police officers from the Opanayake Police station against the villagers and Mr. Wijethileka.

Furthermore, the National Police Commission and the Human Rights Commission should take immediate legal action against the errant policemen so that they are made accountable for their crimes. If it is found that the two policemen did shoot Mr. Wijethileka then they must be brought before a criminal court and tried for their misconduct. Protection must also be afforded to the victim and his family during the investigation of the police officers and compensation needs to be offered to Mr. Wijethileka for medical treatment and the trauma he has suffered.

K.D. Shantha Wijethileka, 24 year old, trader in porcelain goods and a resident of Udagama village, Opanayake  
Alleged perpetrators: Policemen attached to the Opanayake Police station.  
Place of incident: Near a gemming field in the town of Opanayake  
Date of incident: 21 July 2005

The Ratnapura District, about 600 miles South East of Colombo is famous for its lucrative gemming industry. Opanayake is a town in the Ratnapura District. On 21 July 2005 around 12 noon, several valuable gems were unearthed in a gemming field nearby Udagama. Shantha Wijethileka together with his brother-in-law rushed to the area, which was already filling with fellow villagers all eager to witness the discovery of the gems. According to Mr. Wijethileka, when he was approaching the scene, he heard several gun shots. The people became frightened and began to disperse, shouting that the police were shooting at them.

Then, a round of tear gas was also aimed at the crowd. Thus in fear of his safety, Mr. Wijethileka decided to leave the place and ran along a short cut that led to his house. At that moment he was shot in the back and when he turned around to see who had shot him, he saw two policemen aiming their guns at him. Despite being hit, the victim dragged himself about 25 to 30 feet away from the police. But he was shot again in the back for a second time by the same police officers even though he was totally unarmed and posed no threat to anybody.

The victim says then when he looked behind him, he recognised the policemen who were shooting at him. The villagers rushed the severely injured victim to the Balangoda Hospital where he was later transferred to the Ratnapura General Hospital. One of the bullets had penetrated the victim's lung and so he was compelled to stay in the hospital for more than 10 days. When the victim was fit enough, he filed a complaint against the Opanayake police with the hospital police as well as with the Judicial Medical Officer.

However, to date no investigation or legal action has been taken against the perpetrators who shot Mr. Wijethileka in the back. Due to the hospitalisation and the severe nature of his injuries, the victim has been unable to lift any weight and this has seriously impeded upon his livelihood. According to the villagers when the people started gathering around the place where the gem stones were discovered, this frightened the gem merchants who had called in the police to disperse the crowd. It is alleged that the police, in their over-enthusiasm to please the gem merchants, randomly fired at the villagers to break up the crowd. This behaviour put the villagers' life in jeopardy and led to the severe injury to Mr. Wijethileka.

#### **94. Alton Lakshman Mendis: Police fail to investigate case as the alleged perpetrator is the son of an Assistant Superintendent of Police**

The Asian Human Rights Commission (AHRC) has received information regarding an accident victim Alton Laskshman Mendi who was left unconscious by the police who instructed the family members and those around to take the seriously injured victim to the hospital. This was whilst the Pandura police escorted the perpetrator to the Moratuwa Police station. To date, the Moratuwa police do not appear to have begun investigations and have not filed legal action against the perpetrator in the courts.

Alton Laskshman Mendis's wife has complained about the Moratuwa police's refusal to give her details of the perpetrator in question, after which she discovered the perpetrator was in fact the son of an Assistant Superintendent of Police. The AHRC is deeply concerned that this matter has not been investigated and calls for your intervention in this matter. The AHRC requests that irrespective of the perpetrator's identity that he be brought before the law in respect to the serious injuries caused to Alton Laskshman Mendis.

Name of victim: Alton Lakshman Mendis (49) 550, 5th lane, Korawella, Moratuwa

Name of alleged perpetrators: officers of Moratuwa Police station

Date of incident: 28 September 2005

On 28 September 2005, about 3.00 p.m. the victim Alton Lakshman Mendis (49) was knocked down by a motorcyclist. When the motorcyclist was attempting to flee the scene, he was apprehended by the crowd that had gathered around. The motorcyclist had then reportedly telephoned the police who had sent a contingent from the Panadura police in a jeep and escorted him to the Moratuwa Police station.

The police, however, simply ordered family members and those around to take the seriously injured victim to the hospital. That night Alton Lakshman Mendis's condition became precarious and he had to be transferred to the National Hospital, Colombo, where he was warded in the intensive care unit for almost a month. He was then brought back to the Panadura hospital where he has been warded for about three months.

To date, the police do not appear to have begun investigations into the incident nor filed legal action against the perpetrator in courts. The victim's wife also complained that the Moratuwa police refused to give her details of the motorcyclist's name, address, motorcycle number or insurance company details. The wife later discovered that the motorcyclist was in fact the son of an Assistant Superintendent of Police. Irrespective of his identity, the perpetrator must be brought before the law in respect to the serious injuries caused to Alton Lakshman Mendis.

#### **95. Nihal Kithsiri: Arbitrary detention and torture committed yet again by the Horana police**

The Asian Human Rights Commission (AHRC) has received information regarding the torture and arbitrary detention of Nihal Kithsiri. Nihal was arrested by SI Silva and PC Bandara and taken to the Horana Police station without being charged. The victim was allegedly inhumanly and brutally assaulted all over his body. He says that the police officers also suspended him from a ceiling where he was beaten.

On the same day, two of Nihal's friends, Kumara and Sumith Haputhantri were arrested by the same police officers who had tortured Nihal. They were taken to the Police station where they too were subjected to severe torture. The police officers also confiscated several of Nihal's belongings, including a bicycle and a radio. To this date the three victims are still arbitrarily detained without charge at the Horana Police station where they are continually being subjected to torture and abuse from the police officers.

The AHRC urges you to intervene in this matter. Please write a letter to the Inspector General of Police to ensure that the three victims are immediately released or produced before a Magistrate's Court. They must be examined by a Judicial Medical Officer (JMO) and afforded medical treatment for their heinous injuries. Furthermore, the Special Investigations Unit must immediately commence an investigation into this case, in order to make those police officers from Horana Police station accountable for the alleged torture. If it is found that the alleged perpetrators had committed crimes against the three victims, then they must be made accountable for their actions and if found guilty of torture, indicted under the CAT Act No. 22 of 1994.

Protection must be afforded to the victims and their families while the guilty officers are being investigated and compensation must be awarded. The AHRC is disappointed to find that the Sri Lankan government has failed to take any action against the Horana police considering the numerous urgent appeals we have done on their officers' misconduct, including one last week, one in December and one in June 2005.

We hope that this urgent appeal will be taken seriously by the Sri Lankan government and can result in the guilty parties being brought to justice.

Name of victims: Nihal Kithsiri, 30, married with one child, occupation - casual labourer; and Kumara and Sumith Haputhantri, friends of the victim.

Alleged perpetrators: Policemen including Bandara and Kaldera of the Horana Police station  
Date of incident: 7 December 2005

Nihal Kithsiri was arrested on 7 December 2005 at around 10.00am by SI Silva and PC Bandara of the Horana police. Nihal was then taken to the Police station where officers Bandara and Kaldera allegedly brutally assaulted Nihal all over his body. The victim was then suspended from the ceiling and once again severely beaten.

The injuries sustained from the alleged torture were witnessed by the victim's mother and lawyer who were allowed to see him while he was in police custody. They saw a number of injuries all over his body and noticed that he was in severe pain. The arrest by the Horana police was completely unprovoked and they still have not filed any charges against the victim. Later, in the evening of the same day, police officers Bandara and Kaldera arrested Kumara and Sumith Haputhantri who are friends of Nihal.

They were taken to the police station and allegedly subjected to acts of torture from the police officers. Kumara sustained severe burn injuries to his body. The police also went to Nihal's home where they confiscated several items including a bicycle and a radio. On December 11, Nihal's brother informed the Human Rights Commission via their 'torture hotline' regarding the victims' torture at the hands of the Horana police. However, despite these notifications, the victims continue to be arbitrarily detained and tortured at the hands of the Horana police officers.

#### **96. Navinna Arachchige Manjula Prasad: Brutal torture of a 27-year-old man by the Pamunugama Police**

The Asian Human Rights Commission (AHRC) writes to inform you that a 27-year-old man, Navinna Arachchige Manjula Prasad, was brutally tortured by policemen attached to the Pamunugama Police station on 18 December 2005. Prasad was on his way home when the policemen stopped him and took him to the police station for questioning regarding the looting of copper wires. There the policemen brutally tortured Prasad while he was being investigated. On December 19, the police forced Prasad to sign a statement they prepared without having him read its content.

He was taken to a rural hospital in Pamunugama where he was partially treated for his injuries. The Magistrate Court in Wattala remanded him despite an appeal made by his lawyer, Mr Amitha Ariyaratne, that it was a case of police torture. Prasad was taken to the Mahara Remand prison where he was remanded. He was not given any adequate treatment inside the prison. On December 27, he was released and subsequently sought treatment at the Ragama Hospital. Your urgent intervention is required to have the victim's allegation of irregularities in the arrest, filing of charges and brutal torture perpetrated by the policemen investigated thoroughly as stipulated in the Convention against Torture Act (CAT) No. 22 of 1994 of Sri Lanka.

The policemen involved must be suspended from their duty once the investigation commences. Charges against the victim in court must be dropped if it is found that the evidence against him was obtained by way of torture.

Finally, please urge the concerned government agencies in Sri Lanka to reimburse the victim of his medical expenses. An inquiry should also be conducted into who must be held responsible from the police and prison officials for their failure to have the victim treated while in their custody. Such failure and inaction must be dealt with accordingly. Additionally, the victim must be placed in a rehabilitation programme for adequate medical and trauma treatment.

Name of the victim: Navinna Arachchige Manjula Prasad (27), a baker living at 476/30, Sagarsirigama, Epamulla, Pamunugama.

Alleged perpetrators: Four police officers attached to the Pamunugama Police station in the Assistant Superintendent of the Police (ASP) Division of Negombo

Date of the incident: 18 December 2005

On 18 December 2005, at 4:30pm Navinna Arachchige Manjula Prasad was riding a bicycle on his way home from Bopitiya when two policemen wearing plain clothes stopped him near the Leo Stadium. He was told that they wanted him to go with them to the Police station for questioning regarding the looting of copper wires. At the same time, another policeman arrived onboard a three wheeler and went with them to the Police station. Upon arrival at the Police station, the policemen started questioning Prasad about the looting which took place at a near by company where several Indian employees work. When Prasad denied any knowledge of the looting, he was taken to a room where the police removed his shirt and used it to tie his hands and legs together. He was suspended in between a half-size wall and a chair after an iron bar was inserted in between his hands and legs. While in this position, the policemen pushed Prasad and started beating him all over his body with a rubber pipe. When he continued to deny what he was being accused of, the police began assaulting him mercilessly wooden pole. The torture lasted for one and a half hours.

Later he was untied and ordered to walk nine times around a table while jumping, a physical activity which was very difficult for the victim to perform given the immense pain he was in. After that, the police threatened to torture him further later that night and placed him in a detention cell. At around 7pm, Prasad's mother arrived at the Police station. She met the Officer-in-Charge (OIC) of the Police station before being allowed to see her son.

The following day, December 19, at 9:30pm a police officer forced Prasad to sign a statement they prepared without having him informed or allowing him to read its content. He was taken to a rural hospital in Pamunugama. At the hospital, his relatives informed the hospital staff that Prasad had been severely tortured but they were ignored. They only attended to the victim's wounds.

After that Prasad was taken to the Magistrate Courts in Wattala. The Magistrate remanded him despite an appeal by his lawyer, Mr Amitha Ariyaratne that his client was severely tortured. The Magistrate instead issued orders to the police to have Prasad checked by medical personnel and



required that a medical certificate be produced at the following hearing. He was taken to the Mahara Remand prison until he was released on December 27.

While in prison custody, he was not afforded any medication attention despite having him confined at the prison's hospital. The same day after his release, Prasad went to the Ragama Hospital for treatment as his back was swollen and his fingers numb. He was confined in Ward 5. While at the hospital, the policemen assigned at the hospital recorded the victim's statement regarding the incident. The Judicial Medical Officer (JMO) likewise examined him. On December 28, the police officers then came back and asked him to sign a document they prepared. The police, however, did not properly inform Prasad of its content or have him read it. He was sent home in the evening of that day.

### **97. B. Nimal: brutally tortured and illegally detained by the Wanduramba police because his son had disappeared with a young lady**

On 18 December 2005 at about 9:30pm, several policemen from the Wanduramba Police station visited B. Nimal's home and demanded to know the whereabouts of his 23-year-old son. The police informed Nimal that his son had run away with a young woman and gave Nimal two days to produce his son at the police station.

Thereafter, on December 22 between 10:30-11pm, while Nimal, his wife and younger son were asleep, the police again visited their home and knocked on the door. Nimal opened the door and saw two policemen at his doorstep, one in uniform and one in civilian dress. The one in uniform asked Nimal, "Where is your son?" Nimal replied that he did not know where his son was. The police then insisted that in the absence of his son he had to accompany them to the police station and then forced Nimal into their vehicle. When his wife pleaded with the policemen not to arrest her husband, they told her to go to the police station the next morning to claim her husband. Nimal was then taken to the Wanduramba police station.

The policemen who escorted Nimal took him to the OIC and said, "Here sir, we brought him." The OIC asked, "Where is your son?" Nimal reiterated that he did not know. The OIC then began assaulting him in a most brutal and inhuman fashion, all the while demanding to know the whereabouts of his son. Nimal pleaded with the OIC not to hit him and told him that he did not know where his son was. But the OIC insisted that he knew and continued to torture him. The OIC then grabbed Nimal by his shirt collar and, lifting him, threw his body against the bars of the holding cell. According to Nimal, his head and spine slammed against the bars causing him unbearable agony. The OIC had then pushed him into the cell and slammed the door shut.

Nimal was locked up until the evening of the following day (December 23). When his wife visited him, she too was forced onto a bench and detained at the police station by the OIC. At about 4:30pm, both their statements were recorded and they were forced to sign them without knowing what the police had written. They were then taken to the Beddegama Magistrate's Court and as the

magistrate was absent, they were produced before the Galagedera Acting Magistrate, Buddhika J. Edirisinghe. Though the victims attempted to explain matters, they were remanded for more than a week until 2 January 2006.

Buddhika J. Edirisinghe, who was acting magistrate on the day Nimal and his wife were produced before the Beddegama Magistrate's Court, thereafter represented Nimal and his wife at the bail hearing. The ethical conduct of the legal professional is highly questionable as she first appeared in the capacity of the magistrate and then as counsel for the victim. They were charged with some offence of which neither had any idea and, strangely, their lawyer did not take the trouble to inform them of the details.

According to Nimal, the problem began when his 23-year-old son fell in love with an 18-year-old girl whose parents opposed the relationship. They then ran away together and got married. He strongly believes that the girl's relatives had unduly influenced the Wanduramba police to harass him and his wife. Finally on 25 December 2005, Nimal's son and his bride visited his parents' home. That day, a policeman named Samaranayake from the Wanduramba police came to their home and took away their marriage certificate. When they requested that he return the certificate, the policeman told them that he had handed it over to the courts.

#### **98. Amilla Prasad: Illegal arrest and torture of a man by the Thanamalvila Police**

The Asian Human Rights Commission (AHRC) writes to inform you of yet another case of police torture in Sri Lanka. On 20 December 2005, Amila Prasad was allegedly severely tortured by several policemen attached to the Thanamalvila Police after being arrested without any charges. He is presently being treated for his injuries in hospital.

After the incident, the policemen involved allegedly fabricated stories against the people who had gathered in front of the police station to protest Amila's arrest and torture.

This is yet one more incident of the most careless and senseless acts of torture perpetrated by policemen throughout the country. The AHRC has reported hundreds of cases of the random violence police officers often mete out on civilians. It has become part of the nature of policing in Sri Lanka for officers to behave like gang and assault people randomly.

The AHRC urges for your intervention to ensure that an immediate and independent inquiry into the incident is conducted. Appropriate charges must be filed against them and they must be restricted from their duty once the investigation commences. The government must reimburse the victim's medical expenses as stipulated in the Convention against Torture Act (CAT) No. 22 of 1994 of Sri Lanka.

Name of the victim: Amila Prasad

Date of incident: 20 December 2005

Alleged perpetrators: Some officers from the Thanamalvila Police station (Moneragala)

On 20 December 2005, Amila Prasad was allegedly arrested without any charges by policemen attached to the Thanamalvila Police station. While in police custody, some police officers severely tortured him. A large crowd gathered at the police station to demonstrate against the arrest and torture of this young man.

According to the police, they had gone to settle a dispute between two parties and were assaulted by person present. However, they have not accused Amila of being that person. Furthermore, the people in the vicinity, who went to the police station to rescue Amila, stated that no such assault ever took place. It is reported that Amila had nothing to do with any incident but was randomly arrested by the police and brutally tortured. Meanwhile, a complaint has been made to the Officer-in-Charge of the police station and Amila is currently being treated at the hospital.

### **99. SA Akila Chaturanga: Arbitrary arrest, detention and torture of a man by the Horana Police**

The Asian Human Rights Commission (AHRC) has received information from a reliable source regarding the arbitrary arrest, detention and torture of a man by police personnel from the Horana Police station. SA Akila Chaturanga was detained by the police on 22 December 2005 and arrested for a seemingly fabricated charge of cattle theft. After taking the victim to the home of lawyer Kulatunga Hettiarachchi, whose cattle it was claimed were stolen, the police then returned the victim to the Horana Police station where they mercilessly tortured him.

This included hanging the victim from the ceiling, and beating him with poles. After detaining and repeatedly torturing the victim for a day, the police then formally charged him. They forced him to sign a written statement and produced him before a hospital doctor who signed a document without having even examined the victim. They then produced the victim before the Horana Magistrate's Court where he was not afforded the opportunity to inform the court of the conduct by the police towards him and neither did his legal representative inform this to the court.

The victim was released on bail and was subsequently treated in hospital for three days for the injuries he sustained as a result of the custodial torture.

This is yet one more of the most careless and senseless acts of torture perpetrated by policemen from the Horana police. The AHRC has reported on several previous occasions incidents where persons have been arbitrarily detained and tortured by personnel from the Horana police (please see: UA-238-2005; UA-103-2005; UA-141-2004). In fact the same person involved in this torture, Sergeant Kaldera, was also implicated in a previous case we reported on less than one month ago (UA-238-2005). The AHRC urges for your intervention to ensure that an immediate and independent inquiry into this incident is conducted. The alleged perpetrators must be restricted from their duty once the investigation commences and appropriate charges must be filed against them under the Convention against Torture Act No. 22 of 1994 if the allegations are found to be true.

Please also ask that the investigation look into the role the lawyer played in this incident, as there are strong concerns that the police's conduct may have been at his request.

Further, please urge the concerned Government agencies to afford medical and rehabilitation assistance to the victim without delay. The victim and his relatives must also be provided with appropriate protection if the situation requires. They must be protected from any harassment and intimidation should they file charges in a court of law against the perpetrators.

Name of alleged victim: SA Akila Chaturanga, 22, unmarried;

Occupation: farmhand

Names of alleged perpetrators: The Officer-in-Charge of Horana Police station, Sergeant Kaldera and Police Constables R 1768 and 31288.

Date of alleged incident: 22 December 2005

Place of alleged incident: Horana Police station

On 22 December 2005, at approximately 5am, the victim, Akila Chaturanga was confronted in his home by Sergeant Kaldera and Police Constables 1768 and 31288. Without providing an arrest warrant or giving any reason for their action, the police took the victim into custody. Once there, the victim was threatened by Sergeant Kaldera to return stolen cattle he was alleged to have taken from a lawyer. Sergeant Kaldera then brutally tortured the victim with a pole.

The victim was then taken to the lawyer Kulatunga Hettiarachchi's house. Sergeant Kaldera continued to beat the victim with the pole. Back at the police station the police removed the victim's clothes and blindfolded him with a sarong. They handcuffed him, placed his arms on his legs and inserted a pole between his elbows and knees. They then hung him in the dharma chakra ('Wheel of Law') position and mercilessly beat him on his the soles of his feet, legs and buttocks with poles. The victim claims that he was tortured in this manner for approximately three hours.

The police then lowered the victim down and forced him to jump up and down repeatedly on the spot. They then got him to lie face down on a bench and repeated the beating with poles on his soles and buttocks. He was then locked in a cell. Around 3pm the police took the victim out of the cell and dragged him to the police barracks where they punched him with their fists. He was then chained to a bedpost until 6pm. Meanwhile the police continued to question the victim about the alleged theft of the lawyer's cattle. Owing to this, there are strong concerns that the police's actions against the victim were conducted at the request of the said lawyer.

The following day, on December 23, at around 9am, Sergeant Kaldera forced the victim to sign a written statement. They took him to the Horana hospital where the victim witnessed a doctor signing a document given by the police without the doctor even examining him. At 10 am the victim was produced before the Horana Magistrate's Court. The victim claims that he was not afforded an opportunity to inform the court of his arrest and torture, and his legal representative also did not inform the court. He was released on bail. Thereafter, the victim went to the Kalutara General Hospital where he was admitted to ward 11 until December 26. The victim informed the hospital authorities and the hospital police post about his torture. The victim is adamant that he was falsely charged by the police regarding the theft of the cattle.

**100. P.K.G. Jayawardena, Rajanganaya Gemunupura: Brutal torture of a man and subsequent filing of fabricated charges against him by the Thambuththegama police**

The Asian Human Rights Commission (AHRC) writes to inform you that a man was brutally tortured by the police, who subsequently filed fabricated charges against him on 23 December 2005.

The victim, P.K.G. Jayawardena (46), was tortured by policemen attached to the Thambuththegama police station following his arrest. The policemen, one of whom was identified as Sub Inspector Mendis, repeatedly hit the victim with a pole all over his body. After the incident, the victim filed a complaint against the policemen involved before the Thambuththegama police station – the same station where the victim was detained and where the alleged perpetrators are assigned. Even though the police recorded the victim's statements, the AHRC is deeply concerned that any investigation into this case will not be impartial if the same allegedly persons responsible for the attack are also to inquire into it.

Your urgent intervention is required to request for an impartial and independent investigation by the Special Investigations Unit regarding Jayawardena's case. All the records and documents on his case must also be turned over to them. Additionally, the charges against the victim in Court must be dropped unconditionally. Finally, please urge the concerned government agencies in Sri Lanka to take effective and adequate steps on Jayawardena's case in accordance with the Convention against Torture Act No. 22 of 1994. Appropriate compensation and reimbursement of the victim's medical expenses must be afforded to him without delay.

Name of the victim: P.K.G. Jayawardena (46), married, Rajanganaya Gemunupura

Alleged perpetrators: Sub Inspector Mendis and three policemen attached to the Thambuththegama police station (near Anuradhapura)

Date of incident: 23 December 2005

On 23 December 2005, at around 10:30pm four policemen wearing plain clothes, one of whom was Sub Inspector Mendis, arrived at the house of P.K.G. Jayawardena. The police searched Jayawardena's house and subsequently arrested him. The police also took a sword being kept by the victim from his house. According to the victim, the policemen started assaulting him after his arrest.

He was taken to a nearby boutique and was forced to return the goods he allegedly stole. All the four policemen repeatedly hit him with poles. The torture lasted for about two hours. When the victim's mother and his siblings went to the place and tried to stop the police, they were set upon by the police, who threatened to torture them as well.

The victim's relatives ran for safety. After that, the police took the victim to a nearby cemetery where he was again severely beaten for about half an hour. He was then taken to a nearby school where the police forcibly dragged him out of the police vehicle they were riding in. At around 2am the next day, he was taken to the Thambuththegama police station where he was briefly detained. At about 5pm the police took him to the Thambuththegama hospital.

The victim then told the doctor at the hospital that he was tortured by the policemen. He was taken to the Magistrate's official residence and the lawyer who represented him informed the Magistrate of the torture committed by the policemen against the victim. The victim was released on bail. Following his release, at around 6:30pm the victim went back to the Thambuththegama Police station – the same police station where he was detained and the policemen who tortured him were assigned.

He lodged a complaint against the alleged perpetrators. It was recorded as 70/377/ CIB – 2005/12/24. A policeman assigned to his complaint case gave him a hospital form and told him to proceed to the hospital. At around 8pm, he was transferred to the Anuradhapura hospital where he was admitted for treatment for two days. He is adamant that he was falsely accused of a crime and that the police fabricated charges against him in order to conceal their crimes of torturing him

#### **101. M.H. Priyantha Minipura: A man suffers hearing loss after being tortured by the Ayagama police**

The Asian Human Rights Commission (AHRC) writes to inform you about the torture of a man, M.H. Priyantha Minipura (25), by policemen attached to the Ayagama police post following his arrest for allegedly possessing prohibited liquor on 24 December 2005. The victim's left ear sustained severe injuries, resulting in complete hearing loss after he was severely beaten by the policemen. Although the victim lodged a formal complaint against the alleged perpetrators, identified as Sub Inspector (SI) Jayatissa and other policemen at the Ayagama police post before the Assistant Superintendent of the Police (ASP), the case has not shown any progress.

Additionally, despite the victim having been interviewed and examined by the hospital police and Judicial Medical Officer (JMO) attached to the Ratnapura Government Hospital, no further action has been taken to prosecute the perpetrators. Your immediate intervention is required to call upon the Inspector General of the Police (IGP) to take adequate action in this case. The IGP must order the Special Investigations Unit to commence an investigation.

The policemen involved must be indicted if the allegations are found to be true for violation of the Convention against Torture Act of 1994. Once the investigation commences, the alleged perpetrators must be suspended from their duty and restrictions imposed on them. Finally, please urge the concerned government agencies in Sri Lanka, in particular the National Human Rights Commission (NHRC) to provide reimbursement for the victim's medical expenses, and to ensure that appropriate compensation is afforded to him. Any government intervention or assistance must ensure the victim's full recovery.

Name of the victim: M.H. Priyantha Minipura (25), single and a farmer by occupation living in Ayagama

Alleged perpetrators: Sub Inspector (SI) Jayatissa and other policemen attached to the Ayagama

police post

Date of incident: 24 December 2005

On 24 December 2005, at around 2:30pm Police Constable (PC) Upali Dissanayake, home guard Gunasekera and another policeman attached to the Ayagama police post arrested M.H. Priyantha Minipura with an open warrant. Minipura was kept with Gunasekera while the other police officers started searching for Kasippu, a type of liquor that is prohibited, around the village. At around 6:30pm, the policemen returned. They then took the victim to their police post.

Upon arrival at the police post, Sub Inspector (SI) Jayatissa, who was the officer in charge of the post, demanded Kasippu from Minipura. When the victim denied possessing Kasippu, SI Jayatissa hit him with a strong blow to his left ear. As a result, the victim's left eardrum was damaged and he subsequently fell to the ground. Minipura was later handcuffed to a bed. Half an hour later his handcuffs were removed and the police started beating him with a cane. The police repeatedly hit him on his buttocks and back. Afterwards, he was again handcuffed to the same bed until the next morning. The police later removed his handcuffs but detained him at the police post the whole day.

On December 26, at about 10am Minipura was released on bail after he was taken to the Ratnapura Magistrate Court.

The next day, he lodged a complaint against his torturers before the Assistant Superintendent of Police (ASP). He was given a letter and was advised to proceed to the Ayagama hospital for medical attention. Since the Ayagama hospital did not have proper equipment to treat ear ailments, Minipura was advised to seek treatment at the Ratnapura Government Hospital. On December 28, Minipura went to the Ratnapura Government Hospital where he was treated and confined at the Ear Nose Throat (ENT) ward for five days.

He was also seen by the Judicial Medical officer (JMO). According to Dr. Kirihena, an ENT Surgeon at the Ratnapura Government Hospital, the victim suffered a severe earache and loss of hearing in the left ear as a result of the traumatic perforation of the ear due to assault. After the finding was released, the victim reported the assault allegedly perpetrated by the police to the hospital police at the Ratnapura Government Hospital. After he was discharged from the hospital he was instructed to have a regular check up with the ENT clinic for further treatment.

## 2006

### **102. Manoharan Ragihar (son): A father of a son extra-judicially killed is threatened with death for pursuing justice**

The Asian Human Rights Commission (AHRC) has received the following letter from Dr. K. Manoharan of Trincomalee, whose son was one of five students murdered on 2 January 2006. As we believe that the problems he has raised are of the greatest importance from the point of view of

witness protection in Sri Lanka we are reproducing the letter here. In the past the AHRC has constantly raised the issue of witness protection and the deadly repercussions human rights victims have faced in the attempt to pursue complaints about gross violations of human rights. The case of Gerald Perera highlights this issue and there are so many other cases that we have presented in the past relating to this matter.

The CAT Committee, in their sessions on Sri Lanka in November 2005, made the following recommendation on witness protection: "In accordance with article 13, the State party should take effective steps to ensure that all persons reporting acts of torture or ill-treatment are protected from intimidation and reprisals in making such a report. The State party should inquire into all reported cases of intimidation of witnesses and set up programmes for witness and victim protection."

We urge everyone to take appropriate action to assist Dr. Manoharan to find protection and in seeking justice for his son.

Dr. K. Manoharan 14 St. Mary's Street Trincomalee 26 02 2006

Dear Sir

I am submitting the following facts for your kind information with a view to obtaining your advice and guidance. My second son Manoharan Ragihar aged 20, a G.C.E\_A/1 student who was one of the five students who was murdered on the 2nd January 2006 near the Mahatma Gandhi statue between the Dockyard road and the Sea Beach, Trincomalee.

On the 10th of January 2006 there was a ministerial inquiry at the Magistrate court Trincomalee and I gave evidence on behalf of my son. After the inquiry was over, that night and for several nights after that, there were a number of telephone calls, threatening me and the lives of the other members of my family for having given such evidence. I have already informed you about this in writing. Furthermore, following this incident, late at night some people started banging at the door of my house and throwing stones at the roof. I was scared to open the door to go out and see who was doing this. But everybody knows.

After the continuing problems, the whole city has become silent and no civilians leave their homes. But the forces still walk around the city. My wife and I are Medical Practitioners by Profession. But after my son's death we temporarily closed our Medical clinic. During the day strangers, coming by motorbikes, requested for treatment from me. But when my wife offers her services, the strangers say they want to meet me personally, refuse her offer of treatment and leave. They do not leave their names and always wearing helmets to hide their faces.

After these fearful incidents my family members go to stay in different places at night. After the death of my son a person helped in the purchase of household goods on one or two occasions. The forces asked him as to whom he purchased the goods for when his home was elsewhere. He told them he was helping me and they told him not to go to my house. My friends, regularly coming to meet my family to give moral support were also told them not to go to my house.



I often go to Magistrate's courts, after the inquiry till the case is taken up and I sit along with the parents of the other four victims. In my absence, the Police has been commenting that, we are 'kottiyas' (meaning Tigers) and speak in virulent language. All of these incidents create a moral fear in our minds.

I will bring to your notice, an incident to illustrate my fears: The Trincomalee reporter to the 'SUDAR-OLI' Tamil Newspaper had taken photos of the five students murdered and has given a vivid report of this incident. This appeared on the front page of the paper. This report highlighted the atrocities perpetrated on the Tamils by the forces, to the outside world. This reporter was shot dead on the 24th of this month at 6:30 am while going for work. The normal version of the authorities is that an unknown person has killed the victim. Normally the murders perpetrated by the armed forces go unnoticed, and are classified as being murders of unknown people and therefore investigations cannot be done. In this case of murder of these five students there is clear evidence to show that it was perpetrated by the armed forces.

Now I don't run the Medical Clinic fearing murder at any time for me or my wife or my other two sons. My two sons are unable to attend school, because the forces ask them whether they are the brothers of the 'late kottiya'. As the newspaper had published the photos of my late son along with my own and my other sons, it is also risky for us to settle in any other part of the island. Sir, I think you can understand the risk to life I and my family are facing.

We cannot get over the deepest sorrow of missing my loving son Ragihar and we really do not want another death in our family. Can you help me in any way to at least safeguard the other members of my family?

### **103. R.D. Kanishka Gayan: A young man tortured allegedly in revenge for his parents' campaign against the illicit liquor trade**

It has come to the attention of the Asian Human Rights Commission (AHRC) that a 21-year-old man was tortured by police personnel attached to the Horana Police station on 5 January 2006. The police raided the victim's house and took him into custody without providing any arrest warrant or giving any reason for his detention. The victim spent one day in detention, where he claims he was tortured by some police officers, including Sergeant Rajapakse and Police Constable Chandraratne. On his release, the victim was taken to the Horana hospital where he was warded for several days.

To date the victim has not been informed by the police as to whether he is suspected of having committing a crime. His parents however, claim that their son was detained and tortured in response to their recent campaign against the illicit liquor trade.

Your urgent intervention is required to have the victim's allegation of arbitrary detention and torture perpetrated by the policemen investigated thoroughly as stipulated in the Convention against Torture Act (CAT) No. 22 of 1994 of Sri Lanka. The policemen involved must be suspended from their duty once the investigation commences.

An inquiry should also be conducted into who instructed the police to detain the victim in the first instance. Please also urge the concerned government agencies in Sri Lanka to reimburse the victim of his medical expenses. Additionally, the victim must be placed in a rehabilitation programme for adequate medical and trauma treatment.

Name of victim: R.D. Kanishka Gayan, 21-years-old, unmarried;

Occupation: mechanic;

Name of alleged perpetrators: Sergeant Rajapakse, PC Chandraratne and others from the Horana police

Date of incident: 5 January 2006

On 5 January 2006 around 1.00am there was shouting and banging on the front door of G. Anulawathi's home. The callers identified themselves as the police and demanded that they open the door. Anulawathi's daughter, Tamarasi opened the door. Three policemen armed with guns barged into their home and demanded to see her brother, Kanishka Gayan. Tamarasi said he was sleeping. One policeman, Chandrarathne (reg. no 31288) went into the room in which the victim was sleeping. The other two policemen went into the rooms in which four girls were sleeping and began to search the room. They dragged the victim outside and readied themselves to take him to the Police station.

His mother asked why they were arresting her son but the only reply she got was a barrage of filthy language. They even threw stones at her. They then put the son into a private vehicle in which they had arrived and went away. Around 4.00am Kanishka Gayan's father and brother-in-law went to the Horana police station in search of him. They arrived home around 10 that same morning and said that the boy had been severely assaulted at the police station.

They had been told to return to the police station around 11.00am. Therefore, at 11 they returned to the police station, along with the mother. They met with the Officer-In-Charge, Inspector Irasinghe who said the boy would be released in the evening. Around 5pm Kanishka Gayan returned home. He complained that he had been tortured at the police station and was feeling ill. He also said that Sergeant Rajapakse brutally assaulted him and that he could recognise the other perpetrators if seen again.

Later, the family took him to the Horana hospital where he was warded for several days. To date the victim has not been informed by the police as to whether he is suspected of having committing a crime. But according to Anulawathi, her and her husband had recently organised a group of villagers to stand up against the use of illicit liquor in their village.

At the first meeting the husband and wife spoke strongly against this growing menace. They suspect that their son was illegally arrested and tortured as revenge by those who had been adversely affected by their campaign. That is, the traffickers as well as the police who live off the takings from this lucrative business. Anulawathi also suspects that the private van in which the police came to arrest her son belonged to one of these illicit liquor traders.

#### **104. D.A. Gayan Rasika: Immediate treatment and medicines required for a torture victim presently detained at the Kalutara remand prison**

The Asian Human Rights Commission (AHRC) writes to inform you of yet another case of brutal torture of a man, D.A. Gayan Rasika (24), by the Welipenna police following his arrest on 7 January 2006. While in police custody, his relatives reported to the Human Rights Commission of Sri Lanka (HRC) “torture hotline” seeking their intervention. However, the person whom the family talked to told them to let their lawyer inform the Court of the torture incident once he is produced before the Magistrate.

It is reported that the victim is suffering from medical ailments and is being denied medical treatment and medicines by prison authorities at the Kalutara where he is presently detained. He has been taking regular medication for this prior to his being sent to prison. The AHRC is deeply concerned by the prison authorities’ inadequate action to have the victim adequately treated and provided with sufficient medicines. The authority’s failure to ensure the victim’s physical recovery and regular health care is totally unacceptable.

Additionally, the HRC’s inadequate response to this case is appalling. Your immediate intervention is required to request the police and prison authorities to have the victim treated and provided with sufficient medicines. The Special Investigations Unit (SIU) must initiate an inquiry and place the policemen involved at the Welipenna police under investigation. Once the investigation commences, the policemen must be suspended from their duty to prevent them from influencing the inquiry.

Name of the victim: D.A. Gayan Rasika (24), married, a resident of Kalavila, Beruwela. He is presently detained at the Kalutara remand prison.

Alleged perpetrators: Two policemen attached to the Welipenna Police station and personnel at the Kalutara prison

Date of the incident: 7 January 2006

On 7 January 2006, at about 3:15am two policemen attached to the Welipenna Police station arrested D.A. Gayan Rasika at his house and took him to the Police station where he was allegedly brutally tortured. When he was visited by his mother that evening, the victim was bleeding from his nose and mouth. He had severe injuries all over his body and could not even stand on his feet. The victim informed his mother about the torture committed against him despite having great difficulty in speaking.

Fearing for Gayan Rasika’s safety, his parents informed the Human Rights Commission’s ‘Torture Hotline’ about the arrest, illegal detention and torture of their son. Instead of being reassured that their son’s case would be investigated into, the parents were told to wait until their son was produced before the Magistrate and have his lawyer inform the Court regarding the complaint of torture. It was later learned that the victim was produced before the Matugama Magistrate that same day and was remanded to the Kalutara remand prison.

On January 8, the victim's parents and his wife visited the victim where he was remanded. They were horrified to see the severe injuries all over the victim's body. He could not walk and had to be assisted by prison officers. The prison officers told the victim's relatives of the police brutality and torture. It is reported that the victim was suspended from the ceiling and assaulted all over his body. As a result, he was in immense pain.

Although the prison authorities are providing the victim with some medicine, he has not been taken to the prison hospital for adequate medical treatment. The victim has a history of suffering from severe headaches and epilepsy fits. He has been taking regular medication for this prior to his being sent to prison.

His family is deeply concerned that in the absence of medicines, the victim might suffer a relapse of his ailments. The family said the prison authorities must immediately treat Gayan Rasika for his injuries and provide him sufficient medicines for his regular health issues.

#### **105. Police Constable Sunethra Koswatte: Assault on a female police constable by an Inspector of Police of the Matugama Police station**

The Asian Human Rights Commission (AHRC) has received information regarding the assault of a female police constable Sunethra Koswatte (WPC No 3134) by an Inspector of Police at the Matugama Police station. Please send a letter to the relevant authorities listed below asking them to intervene in this case and to ensure that the practice of assault does not continue. Legal action must also be taken against the Inspector of Police who violated the rights of this victim. Finally, please request that all action be taken to instruct the police to refrain from violating the fundamental right to freedom from torture, cruel, inhuman and degrading treatment guaranteed by the Constitution

Name of victim: Police Constable Sunethra Koswatte (WPC No 3134), 35, attached to the Matugama Police station.

Name of alleged perpetrators: Inspector of Police Kasturiarachchi and the Officer-in-Charge of Administration of the Matugama Police station

Date of incident: 11 January 2006

Place of incident: Matugama Police station

Sunethra Koswatte (WPC No 3134) has been a police constable since 1996 and began work at the Matugama Police station on 12 May 2004. On 11 January 2006 at around 7.50am, Sunethra Koswatte was on duty at the Matugama Police station. In the course of her work, she had occasion to visit the police reserve to look for the Crimes Information Book (CIB). Sunethra Koswatte noticed the OIC-administration, Inspector of Police Kasturiarachchi was intimately talking with the telephone operator, WPC, Ajantha. According to Sunethra Koswatte, the Inspector of Police had been annoyed at her intrusion.

He raised his voice and asked, “Why have you taken over this duty?”

Sunethra Koswatte answered, “This is my duty that Ajantha had taken over”.

Her reply infuriated the Inspector of Police who shouted filthy language at Sunethra Koswatte and told her to shut up. The Inspector of Police then walked up to Sunethra Koswatte threateningly, wrapped his fingers tightly around her neck and with his other hand slapped her hard on her face and ears.

He then violently shoved Sunethra Koswatte backwards and then threw her against a wall. Sunethra Koswatte then went to complain to the station-OIC but he was not present at the station. She therefore sent a message to his official residence. The station-OIC replied to Sunethra Koswatte to remain at the Matagama station, until his return.

When the OIC returned, Sunethra Koswatte complained about the Inspector of Police Kasturiarachchi’s assault on her. The OIC then told Sunethra Koswatte to wait until the Assistance Superintendent of Police came to the Matagama station. At around 11am the Assistance Superintendent of Police arrived. Sunethra Koswatte again complained about the assault to the Assistance Superintendent of Police.

The Assistant Superintendent of Police advised Sunethra Koswatte to go to hospital. At 11.45am Sunethra Koswatte made an entry in the station log book that she was going to the hospital. At this time Sunethra Koswatte’s husband arrived at the Police station and together they went to the Pimbura Government Hospital where Sunethra Koswatte received treatment. Sunethra Koswatte also told the hospital authorities about her assault at the hands of the Inspector of Police. On January 12 Sunethra Koswatte was taken by ambulance to the Nagoda General Hospital where she once again, complained about the assault. On January 13 the OIC-Bulathsinhala Police station obtained Sunethra Koswatte’s written statement. Sunethra Koswatte also complained to the JMO who examined her.

On January 14 Sunethra Koswatte was discharged from hospital. Sunethra Koswatte was granted 10 days of medical leave. During this time Sunethra Koswatte was also directed to the clinic and ordered to wear a neck collar for injuries caused to her. Sunethra Koswatte now reports that she has been penalised for complaining against the perpetrator, as she has been transferred to the Bulathsinhala Police station. To date, no disciplinary or other action has been instituted against the said perpetrator.

#### **106. Sunil Premathilake: Illegal arrest and detention by the Gokarella police**

The Asian Human Rights Commission (AHRC) has come to learn of a case involving the illegal arrest and detention of a man by the Gokarella police, despite the latter being informed that the man they had arrested was not the person they were after. Mr. Sunil Premathilake was confronted by the police who were seeking a Mr. Sunil Premarathne.

Though the names varied and Mr. Premathilake pointed this out, the police proceeded to arrest him regardless and took him into their custody. The following day Mr. Premathilake was brought before the Kurunegala Magistrate's Court where he was remanded until 4 February 2006, and later released on bail. The next date of hearing in this case is on March 30.

On 28 January 2006, at approximately 2am, four policemen including a home guard named Ajith arrived at Mr. Premathilake's house and demanded, "Who is Sunil Premarathne?" When Mr. Premathilake said he was "Sunil Premathilake", the policemen informed him that there was a warrant for his arrest and proceeded to arrest him.

Mr. Premathilake insisted that he was not the man they were looking for and had never had a warrant issued against him. The policemen, however, ignored him and escorted him outside. He was handcuffed together with another person whom he later learnt was Sunil Premarathne - a trader in illicit liquor and who often colluded with the Gokarella police for the betterment and financial gain of both parties.

It is believed that Sunil Premarathne often appeared in court under various false names so that his prior criminal record would be concealed from the court. It is further believed that he colluded with the police to deceive both the courts and magistrate. Meanwhile he was also evading a court warrant for his arrest, all the while appearing in court under pseudo names. The victim also says that Sunil Premarathne was reluctant to appear in court in response to the warrant as he feared he would be arrested. So he induced the police to arrest a totally innocent man, falsely charge him and then produce him in court - instead of the liquor trader himself.

Following his arrest at his house, Mr. Premathilake was taken to the Gokarella Police station and put into a holding cell. In the morning, his wife and siblings arrived at the Police station and told the police that he was Sunil Premathilake; not Sunil Premarathne. But the police refused to listen to them. At about 9am the police took him to the Kurunegala Magistrate's Court and presenting him as Sunil Premarathne and got him remanded until February 4.

On February 5 he was released on bail. The next date of hearing in this case (case number 3923/B) is set for March 30. Mr. Premathilake suspects that the police intentionally and fraudulently arrested him, produced him in court and remanded him in lieu of Sunil Premarathne against whom a warrant of arrest had been issued on a previous occasion. He therefore requests that the police be urged to immediately produce the real accused in the case and that immediate action be taken against the errant policemen who misled the court regarding the identity of the accused.

He also demands that he be paid compensation for his illegal arrest and for being falsely deprived of his liberty for several days. It should be noted that the substitution of accused persons in the Magistrate's Court - especially concerning illicit liquor cases - is a common practice by the local police across the country. When an owner of an illicit liquor shop is apprehended and fined, regularly it is one of his/her workers who appears in court, pays the fine and even gets remanded. This is made possible because rarely is proof of ID of the accused required in the Magistrate's Court. Both criminals and the police are benefiting from this system.

### **107. Damith Kumara: Assault and fabrication of charges by the Poddala Police**

The Asian Human Rights Commission (AHRC) has come to learn of a case involving the fabricated charges of a man, owing to the line of work he is engaged in. Though the police have charged the victim with possessing ganja (marijuana), he maintains that he was charged because of the illicit mining conducted by his employer who frequently has to bribe the police to continue in their activities.

Though the victim is out on bail, he is still facing serious charges which is entirely unacceptable given that they are fabricated. On 8 February 2006, at about 7pm, Damith Kumara had stopped at a three-wheel park to chat with a friend. At that time, the Poddala police OIC together with another policeman—both in civvies—approached in a jeep.

The OIC alighted from the jeep and shouted, “You two, come here immediately”. Both Mr. Kumara and his friend walked up to the OIC. As they drew near, the OIC slapped both men hard across their faces. They were then forced into the jeep and taken to the Poddala Police station. Neither was informed about the reasons for their arrest. At the station they were taken to the OIC’s room. He consulted a piece of paper and asked their names.

When they told him their names, he said Mr. Kumara’s name was on the list and instructed the policemen to detain Mr. Kumara and release his friend. The OIC proceeded to assault and harass Mr. Kumara. He then instructed another policeman to ‘book Mr. Kumara for drugs’. Mr. Kumara was then locked in a holding cell. Although he repeatedly requested to know what the charges were against him, the police refused to tell him. The next day at about 8am a policeman entered the cell with an envelope and demanded that Mr. Kumara put his fingerprint on the cover. Mr. Kumara complied due to fear.

Then, at about 11am, he was produced before the Galle Magistrate’s Court and it was only there he discovered that he had been charged with possessing ganja (marijuana) and fabricated case No. 65617 had been laid against him. However, despite being terrified, Mr. Kumara insisted on pleading not guilty to the charges filed against him and accordingly was released on bail. According to Mr. Kumara, his mother is ailing and thus he is forced to work for a sand mining mudalali (businessman)—one of the few casual jobs available in his home town.

It is noteworthy that the businessmen obtain a license to mine for sand several days a week but in reality, they engage in illicit mining throughout the week. This is often done in collusion with the area police who are heavily bribed to ‘look the other side’. However every once in a while, the police arrest a worker, produce him in court and fine him—the fine being paid by the owner. But the businessman is never arrested and the illicit activity continues unabated. Sometimes, the businessman is required to ‘give a case’ to the police, i.e. send a worker to the police to be charged, plead guilty before court and to pay the requisite fine. This way, the police ensure they are not pulled up by superiors for ‘not taking action’ against illegal activities.

According to Mr. Kumara, though the police had on several occasions attempted to arrest him, he had always managed to evade this. Even his employer had not requested him to go to the police 'with a case'. He therefore believes that the police fabricated the 'ganja charge' against him in order to somehow 'teach him a lesson'. Mr. Kumara urges that the authorities take immediate action against the Poddala police and ensure that the fabricated charges against him are withdrawn and that he is not further harassed.

He also urges that immediate disciplinary and legal action be taken against the errant policemen. Janasansadaya, the human rights organisation who is currently assisting Mr. Kumara has already notified the Human Rights Commission, the National Police Commission, the Inspector General of Police and the Attorney General about this shameful incident and hope that these institutions take necessary action to ensure that justice is done.

#### **108. D. Indika Wasantha and Kumudini Malkanthi: A pregnant woman and her husband brutally assaulted by the Rathgama police**

The Asian Human Rights Commission (AHRC) has received information regarding a brutal torture of a young couple, namely Mr. D. Indika Wasantha and Mrs. Kumudini Malkanthi, by the Rathgama police on 16 February 2006. It is alarming that the police did not hesitate to assault the eight months pregnant woman, who was on her way to hospital at the time to meet with a doctor. Ms. Malkanthi was in a serious condition and there is a possibility that the unborn child may have suffered from irreparable damage due to the assault.

It is alleged that the couple was arbitrarily taken into custody and assaulted by the police due to the husband's refusal to lend his vehicle to the police a few days before the incident. Despite their complaints to the Galle police, no arrest has been made against the alleged perpetrators. At around 5:30pm on 16 February 2006, D. Indika Wasantha left his house in Owakanda, Rathgama to take his eight months pregnant wife, Kumudini Malkanthi, to a doctor as she was complaining of severe abdominal pains. However, they were caught in rush hour traffic jam.

When his vehicle slowly approached near the Rathgama Police station, Inspector of Police (IP) Jayarathne, who was standing in front of the station, shouted loudly at Mr. Wasantha, "Ado('Hey you)!". When Mr. Wasantha stopped his vehicle, IP Jayarathne ordered him to drive his vehicle into the Police station premises. When Mr. Wasantha inquired into the reason for this, the IP only replied, "you will find out inside the Police station."

Even though Mrs. Malkanthi asked the IP to allow them to go because they were rushing to see a doctor, the IP refused to listen to her. When Mr. Wasantha drove his vehicle into the Police station premises, IP Jayarathne called out to his colleagues, including Police Constable (PC) No 63063 and five others (four in uniform and one in civilian clothes), to come outside. Immediately PC No. 63063 slapped Mr. Wasantha's face without saying a word. Seeing that her husband was bleeding from his lip, Mrs. Malkanthi begged the PC not to assault him.



Again, she explained that they were rushing to the hospital as she had severe abdominal pains and begged the policemen to let them go. Instead, IP Jayarathne verbally abused her in filthy, degrading and humiliating language. Mr. Wasantha could not bear the verbal insult on his wife and alighted from his vehicle. Six or seven policemen then immediately pounced on him and brutally assaulted him with their fists and boots.

When Mrs. Malkanthi tried to shield her husband, the policemen also beat her body, including her abdomen. She finally fell unconscious. But the policemen did not even attempt to take her to the hospital and continued to beat Mr. Wasantha. Meanwhile, several villagers gathered outside the police station and saw the incident. They shouted at the police to stop assaulting Mr. Wasantha and his wife and urged them to allow Ms. Malkanthi to be taken to hospital. However, the policemen did not listen to the villagers and attempted to drag the injured Mr. Wasantha into the station.

The villagers then prevented the police from doing so and helped Mr. Wasantha and his wife to leave for the hospital. On the same day (February 16), both Mr. Wasantha and Mrs. Malkanthi were admitted to the Karapitiya Hospital. The doctors, who examined the wife, said that she was in a very serious condition and may be in risk of losing her child.

She was later transferred to the Mahamodara Hospital where she was treated for four days. Mr. Wasantha was also hospitalised for two days. Ms. Malkanthi was to give birth in April but the doctors informed her that due to the assault she is to return to the hospital in March to deliver the baby by caesarean section.

The couple fear that their unborn child may have suffered from irreparable damage due to the brutal assault by the Rathgama police. The couple subsequently complained about the incident to both the hospital authorities and the Galle police, who visited them in hospital to obtain their statement. However, no serious action has yet been taken by the police to investigate the incident and the alleged perpetrators are still at large.

Mr. Wasantha claims that the reason for the assault on him and his wife is that he refused IP Jayarathne's request to lend his vehicle to the policemen, who wanted to use it to attend a wedding function, a few days before the incident. He believes that the incident was in revenge for his refusal. Sri Lankan police have been notorious for their brutality including arbitrary arrest, detention and torture of innocent people for a long time.

The situation is all the more alarming as the National Police Commission (NPC), which was given power of disciplinary control over the police by way of the 17th Amendment to the Sri Lankan Constitution, has not functioned since last November 2005 after its mandate finished. However, instead of appointing new commissioners to the NPC, the Sri Lankan government has been delaying this process and meanwhile several senior government officials have openly said that the NPC's power should be transferred to the Inspector General of Police (IGP). This, however, is totally against the objective of the amended constitution.

### **109. Hevage: Torture of a mentally ill man by the Poddala Police**

The Asian Human Rights Commission (AHRC) writes to inform you of an incident whereby two policemen from Poddala police are alleged to have repeatedly tortured a mentally ill man, who they accused of having stolen a mobile phone. When the police were informed that the missing phone had in fact been found, they released the man, but made several threats – including death threats – against the victim and his family for having lodged complaints to the authorities regarding their conduct.

On 17 February 2006, two policemen named Indika and Chaminda of the Poddala police visited Mr. Hevage at his home and arrested him - apparently on the instructions of the Officer-in-Charge (OIC) - and took him into custody at the Police station. On the way to the station, the police proceeded to assault the victim. They did this despite the victim's mother having told them at the time of arrest that her son was suffering from mental health issues. Once at the station, the police once again savagely assaulted Mr. Hevage with clubs, their fists and boots.

They then produced a rubber hose pipe and assaulted the victim with this to his head. While assaulting him, the police accused him of stealing a mobile phone from one Damith - the son of a local businessman named Jayasena - and demanded to know the whereabouts of the phone. Mr. Hevage was also taken to Jayasena's house and tortured again. After returning from the house, the victim was locked up in a police holding cell. Sometime later it is believed that Damith contacted the police and informed them that he had found his lost mobile phone.

Thereafter, on the following day, February 18, at around 2pm the police released Mr. Hevage without charge. Almost immediately, Mr. Hevage was rushed to the Karapitiya hospital where he was admitted and medically treated for five days in ward six (his bed head ticket read (BHT) No 017391).

Meanwhile, on the day of arrest, the victim's mother complained to all relevant authorities in the country, including the Human Rights Commission, the Inspector General of Police, the Attorney General, and the National Police Commission about the assault on her mentally ill son. Subsequent to these written complaints on March 16 the two perpetrators, Indika and Chaminda visited the victim's home in a police jeep and scolded him and his family in filthy language and threatened them to withdraw their complaints.

The following day, two unknown persons whom the victim's family suspect to be policemen, visited their home on a motorcycle and demanded that they withdraw their complaints and threatened them with death. It is believed that the police assaulted the victim on the instigation of the businessman, Jayasena and his son, Damith. This assumption is based on the fact that the victim did odd jobs for various persons in the village, including the businessmen, whose house the victim was at when the mobile phone went missing. Apparently the businessman had immediately contacted the police and induced them - monetarily or otherwise - to arrest and assault the victim.

#### **110. M. K. Buddhika: Torture of a woman by the Baddegama police**

The Asian Human Rights Commission (AHRC) has received information regarding the torture of Ms. M. K. Buddhika by the Baddegama police on 17 February 2006. Ms. Buddhika pleaded with the police to stop beating her as she was recovering from Caesarian surgery. However, the police ignored her plea and continued to beat her regardless.

On February 17, Ms. Buddhika was at a friend's house when several of her cousins, namely Sriyani, Malini and Chandrani forced her into the van of a Mr. Sunil. At around 10pm, they took her to the Baddegama Police station and handed her over to Sub-Inspector (SI) Amarawansa, loudly announcing, "We brought you the rogue".

SI Amarawansa and another policeman (reg. no. 18826) began hitting Ms. Buddhika about the head and face and demanded, "Where are the goods?"

The force of the blow was so strong that Ms. Buddhika fell to the ground. She pleaded with the policemen not to assault her and informed them that she was recovering from surgery and had not stolen anything. However, the policemen replied that they did not care whether she died or not and continued to kick her abdomen. Unable to bear the pain, the victim became unconscious. Later when she awoke, she noticed that she was bleeding from her mouth and one of her teeth had broken. The victim further stated that her cousins and Mr. Sunil were present while she was being tortured.

The victim spent the night in police custody. The next morning the police again interrogated the victim as to whether she stole certain items, but when she denied the allegation, they recorded her statement. Later she said policeman no. 18826, Nimantha and a Woman Police Constable (WPC) accompanied her to the Remand Prison in Galle. The victim informed the prison authorities that the police had tortured her and she was in severe pain.

They afforded her medicine from the prison hospital. On February 20, the victim was produced before court and released on bail. Unfortunately, as her family members were still unaware of her imprisonment, no one was present to sign her bail bond, and thus she was re-remanded. At the remand prison she was able to inform her parents via another detainee who was leaving prison.

Consequently, on March 13, her uncle visited the prison and secured her release on bail on March 15. The victim has since complained that she is suffering from frequent headaches and bleeding and infection from her surgical wound. She was initially unable to receive hospital treatment owing to a strike, but later with the help of a private doctor received medical attention.

#### **111. Kariyawasam Peradorapage Tsuitha Ejith: Torture and fabricated charges laid against a man by the Ja-Ela police**

The Asian Human Rights Commission (AHRC) writes to inform you about a man who was tortured by the police and who is now currently languishing in prison after having had fabricated charges laid against him. Kariyawasam Peradorapage Tsuitha Ejith was first stopped by the Ja-Ela police on 10

October 2005, for alleged traffic offenses. After the victim refused to admit to any offense, a scuffle ensued resulting in the victim pushing a police officer over. As a result, the victim fled and went into hiding. When the victim's whereabouts became known on 23 February 2006, members from the Ja-Ela police went after him and upon finding him, proceeded to torture him. Threats were then made against both the victim and his wife if they dared inform any authority about the torture. The victim was finally produced in the Magistrates Court, without legal support, and charged with assault of a police officer and bomb possession, at which point bail was denied.

On 10 October 2005, the victim, Ejith, was driving along in his vehicle (JW 3933) when stopped at about 5pm by a Police Constable from the Ja-Ela police. The Constable verbally abused the victim and accused him of having violated traffic regulations. The Constable then assaulted the victim, causing a cut on the victim's face. When the Constable once again approached the victim, and with the victim believing that the Constable would strike him again, the victim pushed against the Constable who subsequently fell to the ground. Fearing for his safety the victim then fled the scene, informed his wife of what had happened, and went into hiding. When the police went looking for the victim at his home, they threatened to kill him once they located his whereabouts. On 23 February 2006, the victim was apprehended when he was spotted at a garage and this was informed to the police. Police personnel from the Ja-Ela Police station went to the garage and proceeded to torture the victim with sticks and clubs. In fact he was tortured to such an extent that he could no longer walk.

When the victim's wife learnt of her husband's arrest, she immediately went to the Police station to meet with him. However, the police denied having ever arrested her husband. Later they admitted to having arrested him but informed her that they would kill him. She was also threatened that if she told anyone of this incident, there would be repercussions. Likewise, the police also informed the victim that if he informed anyone of his case, they would lay fabricated bomb possession charges against him. Therefore, when the victim was taken to a hospital to receive treatment, he remained silent about the treatment meted out to him. He was not, however, produced before a Judicial Medical Officer (JMO) and therefore no medical report was made of his injuries.

The following day the victim's wife lodged a complaint with the Human Rights Commission of Sri Lanka. When she informed this fact to the police they stated that they did not care, that they were not afraid, and if staff from the HRC approached them, they would kill them too. Meanwhile, the victim was detained overnight and forced to sign a statement he did not read. He was produced the following day in the Magistrates Court where he was charged with assaulting the Police Constable with an iron rod (which he in fact did not have) and bomb possession.

As the latter charge is a non-bailable offense, the victim was not provided legal support and he was remanded in custody and sent to prison. Upon arriving at prison, he was taken to the prison hospital where he received treatment for his injuries for six days.

As a result of the victim's detention, and subsequent loss of income, his wife and 18-month-old son are now struggling to survive.

### **112. P.W. Tharanga Kumara: Apparent police inaction into the denial of education of a boy after assault by his schoolteacher in Galle**

The Asian Human Rights Commission (AHRC) has received information that seven-year-old P.W. Tharanga Kumara, a student of Gonapinuwela Saralankara School, Gonapinuwela, Galle District, Sri Lanka, was assaulted by a teacher on 2 March 2006 and arbitrarily suspended by the school principal on that day – this after his older brother, Pushpakumara, was similarly assaulted about a year earlier (UA-164-2005). On 2 March 2006, a teacher by the name of Priyadharshini assaulted seven-year-old Tharanga Kumara at around 12:30pm for not meditating.

Tharanga had already faced numerous threats from school officials in retaliation for his mother's complaints against school authorities and police in regards to Pushpakumara's case. That afternoon when Tharanga's mother visited the school to collect her son, his class teacher brought the boy to her and explained what had occurred. However, the principal and another teacher by the name of Ranjini rushed to the scene and scolded the class teacher for conversing with the mother. She left with her son and on March 3 lodged a complaint regarding the incident to the Hikkaduwa Police station. She was told to return to the police station on March 16 for additional inquiries into the incident.

On March 15, when Tharanga returned to school after recovering from an illness, the Hikkaduwa police visited the school and recorded his statement as well as the statements of two of his classmates. When his mother returned to the Police station as instructed on March 16, Police Sergeant No. 6122 shouted at her with degrading and obscene language and also threatened her by raising a chair to hit her instead of allowing her to record her complaint.

When she returned to the station on March 17, the police handed her a judicial medical form – a document that should have been given to her the day she initially lodged her complaint, not two weeks after the incident. Subsequently, the mother received a letter from the school principal on March 17 informing her that Tharanga Kumara had been suspended from school until further notice for no specified reason and that this was done on the advice of the Zonal Director of Education.

A year earlier, Tharanga's brother was also suspended after being assaulted and has not been able to return to school or take his December O/L examination, depriving him of his right to education. The teachers and principal of Gonapinuwela Saralankara School have been engaged in a constant effort to coerce the Kumara family into withdrawing their complaints and case against the perpetrator.

Tharanga's mother strongly believes that he was suspended from school in revenge for her complaints against the school authorities for the harassment of her elder son, Pushpakumara. Our sources have also informed us that the school authorities and police have also instigated other

parents to harass and intimidate the Kumara family. Currently, both Kumara boys are being deprived of their right to education. The AHRC is gravely concerned by this serious case. The police have not only failed to protect the boy's right to education but also put his family in greater danger by neglecting the family's constant complaints. This is yet another example that illustrates the dysfunction of the policing system in Sri Lanka.

### **113. V.M. Duminda Jayawardena: Torture of a man by the Mitiyagoda police**

The Asian Human Rights Commission (AHRC) has received information regarding the brutal assault of V.M. Duminda Jayawardena by two policemen from the Mitiyagoda Police station on 11 March 2006. On March 11, at around 4p.m, Mr. Jayawardena was returning home when two policemen from the Mitiyagoda police station arrested him. At the time his sister and brother-in-law were also present. On inquiry he was told he was being arrested on suspicion of theft. Mr. Jayawardena was put into a jeep and taken to the Mitiyagoda Police station. At the station, he was taken into a room and forced to remove all his clothes.

His hands were tied behind his back then he was strung up with rope on a beam across the ceiling and severely assaulted on the soles of his feet, his head and back. The police assaulted him with a wooden club in an attempt to make him confess to the theft. Mr. Jayawardena screamed in pain insisting that he did not steal anything and that he was not aware of any theft. However, the policemen insisted that he had stolen jewellery and continued to inhumanly subject him to torture.

Later he was brought down and water was poured on his body. Despite the fact that his arms were numb and his feet were swollen the police forced him to jump up and down and to walk about. They then allowed him to get dressed and took him back to his house. They searched his house but did not find any incriminating evidence, so they returned him to the station and locked him in a holding cell. It was at this time that he saw Ms. Mala Jayawardena, the person who had accused him of theft. He noticed that Ms. Mala and company remained at the station until around 7pm and that they had brought drinks and cigarettes for the policemen.

Mr. Jayawardena complained that although Ms. Jayawardena is related to him, owing to a land dispute, the two families were not on good terms. The next day (March 12), Mr. Jayawardena was taken to the Batapola Hospital by the same two policemen who tortured him. He said that the police filled in two documents; one of which they handed over to the doctor while the other they took back to the station. He said that though he complained about his pain and the doctor observed his swollen feet, numb arms and his difficulty in walking, he did not receive any medical attention.

Thereafter the police produced him before the Acting Magistrate – who was also a lawyer practicing in courts - at the Magistrate's private residence. The Magistrate failed to inquire into any details from the victim and simply remanded him instead. He was taken to the Balapitiya remand prison and the next day transferred to the Galle prison. He also said that though his aunt retained a lawyer on

behalf of him, the lawyer Sasanka failed to bring his brutal torture at the hands of the police to the attention of the Magistrate.

Mr. Jayawardena has complained that more than two weeks after the incident he is still suffering from the injuries he sustained as a result of the police torture. As a result he is unable to engage in work which has gravely affected his livelihood.

Unfortunately, Mr. Jayawardena is yet another example of the growing violence being perpetrated by policemen in Sri Lanka. The AHRC has previously reported on many cases in Sri Lanka regarding this matter (See further: UA-182-2005, UA-234-2005, UA-009-2006 and UP-040-2006). Such conduct by the police is a clear violation and as a public officer the alleged perpetrators should be subjected to the provision of the Convention against Torture Act No 22 of 1994 (CAT) which states a minimum seven year sentence for torture conviction.

#### **114. Sameera Harischandra: Cops and robbers at the Nochchiyagama Police station**

On 12 March 2006, at about 6pm, an argument ensued between Sameera Harischandra and friends and four persons who were posing as ‘cattle traders’. After some time the four persons alighted from their vehicle – a white truck bearing the license plate 47-3692 – and walked up to Sameera and brutally assaulted him. So severe was the assault that Sameera’s leg was fractured. The four persons then dragged him by his leg and threw him into their truck. But oblivious to the injuries the victim had suffered the perpetrators continued to beat him and threatened to throw his body on a pile of burning tyres. The perpetrators also assaulted Sameera’s friend, Buddhika and another person, but they both managed to get away. Several people who saw Sameera’s abduction followed the track and as they reached nearby the Nochchiyagama police station, managed to overtake the truck and shout to the perpetrators to release Sameera. However, the perpetrators ignored this and soon turned their truck into the police station compound.

It was only then that onlookers noticed that one of the four perpetrators inside the Police station was in fact a serving policeman. Upon hearing of this case, Sameera’s brother and the complainant in this case, Mr. Lusantha Harischandra proceeded to the Nochchiyagama police station. There he noticed that Sameera was bleeding and still being detained inside of the truck. When Lusantha, and his other brother Edward, shouted “why are you trying to kill our brother?”, several policemen pounced on them and proceeded to assault them with their fists and boots. After 20 minutes of this, the brothers were arrested and detained. Soon after, and following considerable protests by the local villagers, the police took Sameera to hospital.

That night, three of the four perpetrators were placed into the holding cell. While they were released in the morning, the brothers were only released around 3pm. The brothers also claim that during their detention that night, a policeman named Tyron Fernando approached them and accused them of assaulting him. Mr. Fernando said they would only be released if they paid him Rs. 20,000. When

the brothers insisted it was they who were the victims of assault, not him, Mr. Fernando threatened to haul them before court.

The brothers said that it was only after they paid the police Rs. 20,000 – which they got from one of their relatives – that they were released from the station. The police then forced the brothers to settle the case of causing grievous injuries to Sameera by accepting Rs. 7,000 from the perpetrators.

Thereafter as the brothers too were injured, they visited hospital and received treatment for two days. While in hospital, they made the authorities aware of the assault committed against them. Later their father complained about the incident to the Assistant Superintendent of Police in Anuradhapura. The brothers further say that while in police custody they observed the close relationship between the police and the three civilian suspects.

They later discovered that although in the guise of cattle traders, the perpetrators were actually roaming about as cattle thieves and that one among them was confirmed as a policeman. Sameera was transferred from the Nochchiyagama hospital to the Anuradhapura hospital where he was treated for more than one week.

#### **115. E. Gnanadasa: Failure by the police to investigate the brutal assault of a Kalavana farmer**

The Asian Human Rights Commission (AHRC) has received information regarding the brutal assault of a 39-year-old farmer from Pitigala Hill, Kalavana by two policemen from the Kalavana police station on 12 March 2006. The policemen also forced Mr. E. Gnanadasa to sign a written statement, the contents of which he was unaware. Mr. Gnanadasa is currently recovering in the hospital, but the police have failed to record his complaint or take any action in regards to his case. On 12 March 2006 at around 10:30am, two policemen from the Kalavana police station, dressed in civilian clothing, visited Mr. E. Gnanadasa's home and demanded that he produce a gun.

The police officers then hit Mr. Gnanadasa with a torch, and punched and kicked him in front of his wife and two-year-old child. The officers then took Mr. Gnanadasa to the home of his elder brother, Mr. E. Siripala, and began to search the house in the latter's absence.

Not satisfied, they took Mr. Gnanadasa back to his house and assaulted him again, shouting, "If you don't give us the gun, at least give us the meat." Thereafter the police forced Mr. Gnanadasa to sign a written statement, the contents of which he was unaware. The following day, March 13, Mr. Gnanadasa's condition took a turn for the worse and he was rushed to the Kalavana hospital where he was admitted and treated for his injuries.

That same day, the victim's brother, Mr. Siripala visited the Assistant Superintendent of Police (ASP) to complain about the incident; however, the ASP refused to investigate the case and instead told him to lodge his complaint with the Kalavana police, the same police who assaulted the victim. Mr. Gnanadasa continues to remain in the hospital, but to date, the hospital police (from the Kalavana



Police station) have failed to record his complaint. According to Mr. Siripala, he believes that his brother was attacked because about a month and a half ago Mr. Gnanadasa complained to the police about the proliferating Kasippu business in his village. Mr. Siripala believes that this incident was in revenge for his brother's complaint.

Unfortunately, Mr. Gnanadasa's case is not an isolated one whereby the police fail to document and investigate a complaint. The AHRC has reported several cases related to the refusal of the police to properly enquire into complaints lodged before them (see further: UA-038-2006 and UA-21-2005). This is hardly surprising given that the current procedure for lodging a complaint against the police in Sri Lanka involves reporting the incident to the very same Police station where the alleged perpetrators are based. This being the case, complaints are routinely ignored.

#### **116. W. Sunil and Wasanthi: Torture of a husband and wife by the Wanduramba police**

The Asian Human Rights Commission (AHRC) has received information regarding the brutal torture of Mr. W. Sunil and his wife, Wasanthi by the Wanduranba police on 17 March 2006. On March 17, at around noon, two policemen from the Wanduramba police visited Mr. Sunil's vegetable farm. As he was not in, they hid themselves nearby. When Mr. Sunil returned to the farm and heard his wife Wasanthi shouting, he went to investigate. Suddenly the two policemen jumped onto him and assaulted him with a wooden club.

While torturing him they demanded illicit liquor and implements. When Mr. Sunil denied any knowledge of this, he was assaulted once again. Later Mr. Sunil noticed that the police were forcing his wife to kneel down in front of their home. When he was placed alongside her, the police then proceeded to torture the couple before forcibly taking them away from their home.

When the couple asked for some water, the police told them to drink muddy water and then forced them to do so. The police then forced Mr. Sunil and his wife to get into an open-top vehicle - thus, publicly shaming them - and took them to the Wanduramba Police station. At the station, again they were forced to kneel down and remain so for over one hour.

Sub-Inspector Panawela moved towards the victims and struck them with a muddy shirt. The police then wrote something down on paper and forced Mr. Sunil's signature onto the document. At around 8pm, the couple was released on police bail. That night, as Sunil's wife's condition worsened, he took her to the Karapitiya hospital. Both husband and wife were admitted to the hospital where they were treated for three days. At the hospital they complained to the Judicial Medical Officer, as well as the hospital police about the torture.

#### **117. Kithsiri Dhanawardena: Brutal torture of a man by police trainees**

The Asian Human Rights Commission (AHRC) has received information regarding the brutal

torture of OKD Kithsiri Dhanawardena by Ketapola police training college trainees. On March 25, Mr. Dhanawardena received a message from police trainees, Mr. Gunathilake and Mr. Jayarathne to come to the Ketapola training college for a cab hire. However, Mr. Dhanawardena was already engaged in another hire at the time and therefore he refused.

Then on March 27, at around 6pm, Mr. Gunathilake and Mr. Jayarathne arrived at the three-wheel cab stop and approached Mr. Dhanawardena, threatening him about the incident two days earlier. When Mr. Dhanawardena told them he would complain to the police Officer-In-Charge (OIC) about their behaviour, they verbally abused him for threatening to do so. Forty minutes later, Mr. Gunathilake and Mr. Jayarathne returned to the stop with about 100 others, all from the police training college and all in uniform.

One of them pointed at Mr. Dhanawardena and queried, "Is that him?" then without warning, pulled Mr. Dhanawardena by his shirt collar and began beating him.

Immediately all the others pounced on the victim and pummeled him with fists, poles and boots. As a result the victim was severely injured and fell to the ground screaming. Mr. Gunathilake and Mr. Jayarathne then drove the victim in a police training college vehicle, first to the training college itself and thereafter to the Elpitiya Police station.

After his family was notified they went to the Elpitiya police where they saw the victim sitting on a chair bleeding and bruised. They attempted to lodge a complaint but the police refused. The police told them to wait until the station OIC arrived. Two hours later the station OIC together with the training college OIC arrived and they took the victim aside and inquired about the incident. The victim's mother intervened and told the police that her son was severely injured and in need of urgent medical attention. Only then did the OIC allow the victim to go to hospital. However, the Elpitiya police failed to obtain any statement from the family.

The victim was taken to the Elpitiya district hospital where the doctor insisted that he be warded immediately. The family told the doctor about the assault on him. After urgent treatment the victim was transferred to the Karapitiya hospital, where the family once again told doctors the details of the incident.

As a result of the brutal torture, the victim had to be hospitalised until April 3. It was also found that the victim's vertebra had been damaged and he had to be fixed with a catheter. Later in the face of apparent police inaction, angry villagers protested against the police. Due to the massive protest regarding the incident, the Elpitiya police finally arrested the perpetrators Mr. Gunathilake, Mr. Jayarathne and one other from the training college and charged them before the Elpitiya Magistrate Court (Case No. 37546).

Also three trainees on March 28 and one more on March 31 were arrested and remanded for the same incident. Subsequently, they were all released on bail. The victim also complained that no steps have been taken to apprehend the other culprits whom the victim can recognise if seen again. Unfortunately, this is another example of the growing number of torture cases carried out by

public officers in Sri Lanka. The AHRC has previously reported on many cases regarding this matter (UA-108-2006, UP-069-2006, UP-051-2006 and UA-103-2006). Immediate legal action must be taken against the perpetrators and as public officers such conduct should be subjected to the provisions of the Convention Against Torture Act No 22 of 1994 which states a minimum seven years sentence for torture conviction.

#### **118. Wijewardena: Illegal arrest and detention by the police on politician's request**

On 31 March 2006, at around 11am, Officer-in-Charge (OIC) Jayampath and a constable visited Mr. Wijewardena's boutique and queried his identity. When he told them, they asked him where his three-wheeler was to which he replied, "at home".

The police said they wanted to see the vehicle, and on taking him home told him to bring the three-wheeler cab to the road. However when it was brought out, the Constable ordered Mr. Wijewardena to proceed to the Police station. Throughout the journey the police constable scolded and threatened him in obscene language, but Mr. Wijewardena was never informed the reasons why he was being taken to the Karadeniya Police station. At the Police station, the OIC took Mr. Wijewardena's vehicle registration, insurance papers and the vehicle keys. Mr. Wijewardena was then informed that politician and Member of Parliament (MP), Gunaratne Weerakoon had complained that he had been distributing defamatory posters against the MP.

The OIC threatened Mr. Wijewardena to tell the truth and harassments continued for about three hours. A relative named Ramya Sri Wijetunga then came to the station. The police requested him to go and visit the politician regarding the incident, however the request was refused. The police then ordered Mr. Wijewardena to phone his wife to ask her to come to the Police station. When his wife arrived the police proceeded to speak to her in extremely disparaging terms and threatened to send her husband to prison for two years. The police continued to pressurise the family to admit to distributing the posters.

At around 2pm the OIC requested his wife to meet with the politician and resolve matters, but to the annoyance of the officer this was also refused. The family was told by the officer to wait until his return whilst he met with the politician.

When the OIC returned at around 5pm he said to Mr. Wijewardena, "I am going to take you to court" and went on to explain, "I only want to please the MP because it is he who got me this post." The officer then drafted something in the books and forced Mr. Wijewardena to sign it. When his wife requested to read its contents, as Mr. Wijewardena's eyesight is weak, she was abused with filthy language.

The police then took the family to the home of Carlton Silva, a lawyer who was also the acting magistrate. Accompanying them was the OIC and the constable. Mr. Charlton Silva said that he was remanding Mr. Wijewardena until March 4 and asked the wife to retain his services until March 3 when he would obtain bail for her husband.

Mr. Wijewardena was taken to Balapitiya and remanded there. As instructed, the wife retained the same Carlton Silva for Rs. 2500 on March 3. However she states that after the lawyer and the OIC conferred with the magistrate, Mr. Wijewardena was remanded for further terms.

The case was fixed for April 10 and Carlton Silva again promised to have him released on that day. On the day, in a desperate attempt to secure her husband's freedom, Mrs. Wijewardena retained another lawyer, Dickson Gunawardena to get bail for her husband. After a lengthy discussion between Dickson Gunawardena, Carlton Silva and the magistrate, Mrs. Wijewardena was informed that as Mr. Silva had already appeared for the case, it was in their interest to retain him as well. The next morning, the wife paid a further Rs.2500 to Mr. Charlton Silva and Rs.2000 to Dickson Gunawardena to secure her husbands' discharge.

Mr. Wijewardena was finally released on bail on March 11. Thereafter the lawyers advised Mr. Wijewardena to admit to the charges against him as the fine would only be Rs.100. However Mr. Wijewardena is adamant that he will not admit to an offence that he did not commit. The case is next scheduled for June 26. Mr. Wijewardena states that his fundamental rights guaranteed by the Constitution of Sri Lanka have been violated by the police by illegally arresting him, fabricating charges against him to please a politician and then presenting false facts to court and securing his detention for almost 10 days.

#### **119. Indika Kulasekara: Assaulted with helmet**

On 7 April 2006, at 7.20am Indika Kulasekara was driving his bus and was collecting passengers as usual. The bus was traveling towards Kandy. At about

7.40 am the bus came to Digana-Madarwala junction and Indika wanted to stop the bus at the bus shelter. However, there was a van stationed at the shelter, and so the bus could not be stopped in the shelter. Therefore Indika stopped the bus just prior to the stationed van and bus shelter.

PC Sarath was on a motorbike and approached the scene. PC Sarath parked the motorbike behind the bus, and then went to the driver's window. PC Sarath inquired with Indika as to why he had stopped the bus before the designated bus shelter. Indika replied that there was a van in the bus shelter and as such he could not stop the bus there. He also asked the policeman, "Can you not see the van?" After Indika's response, PC Sarath shouted at Indika not to instruct him on the rules and regulations. PC Sarath then requested Indika to get down from the bus, and to come and meet him behind the bus, where the motorbike was stopped.

After getting down from the bus, Indika followed PC Sarath's instructions, and went behind the bus. Indika did not have his licence, but only a temporary licence of which he presented to PC Sarath. Indika did not have his proper licence because the Manikinna Police station was holding his license due to another incident involving the bus's tyres. Again, Indika explained that he could not stop in the bus shelter because of the van. PC Sarath then scolded Indika telling him no to tell such stories.

PC Sarath told Indika he would let the incident slip, if Indika gave him money considering it was the New Year season. PC Sarath continued, “If you want to go, you can give Rs. 500 and then you can go.” Indika did not have this money, for this was the first journey of the day, and so he told PC Sarath that if it were alright, he would give this money later to him. PC Sarath again asked Indika for the money, and again he replied that he did not have anything now but could give it later. PC Sarath then scolded Indika, before Indika interrupted telling PC Sarath officer not to scold him and to issue a receipt for him to pay later. PC Sarath then told Indika not to be so smart, after which he took Indika’s temporary licence, crumpled it up and threw it away. At the same time, PC Sarath started to assault Indika with a helmet, causing Indika to yell out not to hit him. PC Sarath ignored these cries, and continued to hit Indika, and also yelled out to “bring the weapon”.

During this time, Indika’s father, Kulasekara had got down from the bus and was approaching the scene. Kulasekara yelled to Indika to run. Indika then pushed the policeman and ran, believing he was about to be shot. While running, Indika got onto a bus heading towards Kandy. Indika got off the bus at Kengalla. After which he then got on another bus heading towards Kandy from Mahiyanganaya. After about one kilometre the bus approached the Kengalla Junction (close to BOI project) and Indika noticed several civilians getting on the bus. These civilians then approached Indika informing him that they were police officers from Balagoola Police station and that Indika was to get down from the bus. Indika proceeded to get down from the bus, after which the eight officers escorted him to a jeep parked on the right hand side of the road.

The officers then drove Indika to Digana village. Here, Indika was told to get down from the jeep, as the Balagoola police were to hand him over to the Teldeniya police who had brought another jeep. Of the Teldeniya police, there were five police officers and one SP present at the scene. As Indika was getting into the Teldeniya jeep, the SI started to hit him after which the other five officers joined in causing Indika to fall to the ground. One of the officers commented that they were not to hit him too much but were to take him to the scene of the incident. He continued that they were to keep hitting him, but were not to make any visible external damage. The jeep then took Indika to the scene of the incident, where the bus was still parked there.

At the Digana-Madarwala junction, Indika was again told to get out of the jeep. PC Sarath was still present at the scene. The other officers told PC Sarath that they had brought the man. Indika noticed that PC Sarath was holding a two-foot pole. As Indika was getting down from the jeep, PC Sarath then proceeded to beat Indika’s legs and lower back. He then told Indika that we are the people who will take you to the Courts; you do not have the strength to fight with us. Indika eventually fell onto the road. After which PC Sarath placed his foot on Indika’s head and applied pressure, following this he kicked Indika. PC Sarath then told Indika to get up, but Indika was unable to get up and there was blood flowing from his nose and mouth. Therefore, the officers picked Indika up and again put him into the jeep. Once inside the jeep, two officers held Indika up, whilst another officer continued to beat him in the chest region. The jeep then drove to the Teldeniya Police station.

Upon arrival at the gate of the Police station, the officers told Indika to get down from the jeep. As Indika was getting down from the jeep, the officers again kicked and beat him. Once inside the Police station, three officers assaulted Indika with a pole, after which Indika was placed into a cell. After about three hours the officers recorded some details down and asked Indika to sign the document, but Indika was never asked anything. Indika refused to sign the document, but the officers told him that if he refused to do so they would proceed to break his legs and arm. Due to fear, Indika signed the document but it was not with his proper signature. The officers then put Indika back into the cell.

After another two hours the officers took Indika to the hospital to get some medical certificates. At the hospital, Indika received no treatment or medication and there were no examinations conducted. However, the officers left with medical documents.

Following the hospital visit, Indika was taken to the Teldeniya Magistrate's Courts, after which he was then taken to the prison and admitted to the prison hospital. Indika remained at the prison hospital until the April 17. Indika tried to get bail on April 11 but it was refused. However, on April 17 he was given bail and released for Rs. 2500 with a guarantee of Rs. 200,000.

#### **120. Dharmasiri: Tortured to confess to a crime by the Katupotha police**

The Asian Human Rights Commission (AHRC) writes to inform you of yet another torture case in Sri Lanka. On this occasion the victim was arbitrarily detained by the Katupotha police, who accused him of stealing jewellery and money. Though these were not found in the possession of the victim, the police proceeded to threaten and torture the victim into confessing to the crime of theft.

The victim, however, maintained his innocence, which only infuriated the police further. It was not until two days later that the victim was finally released from police custody, carrying injuries from the torture inflicted upon him and minus Rs. 500 that was stolen by the police from his wallet. Following his release, the victim was hospitalised for one week to receive treatment for his injuries

.On 8 April 2006, at around 1pm, Mr. Dharmasiri and his family went for a musical programme at the Colombogama School. About one hour later Mr. Dharmasiri went home to collect some clothes in a bag (because he wanted to go to Colombo the next day) and returned to the musical festival. On his return to the musical a policeman walked up to him and demanded to examine his bag. About seven policemen followed.

They escorted Mr Dharmasiri to the side of the road where he showed them the contents of his bag. Then a policeman named Pushpakumara slapped him and told him to close his bag. He forced Mr. Dharmasiri into a police jeep nearby and took him to the Katupotha Police station.

At the station Pushpakumara told him, "get down, I will find the goods on you". Then as Mr. Dharmasiri was climbing up the steps to the Police station he viciously assaulted him with a club. Inside the Police station Pushpakumara and others began harassing and assaulting him. Several

times they got him to empty the contents of his bag on the floor and then put them back again. It was at this time that Mr. Dharmasiri learnt that the reason for this was that he was suspected of stealing jewellery and money from a nearby home.

Although he vehemently denied this accusation, they did not believe him. Pushpakumara then grabbed him by his collar, raised him and pushed him down on the bare cement floor, where he says he slammed his spine on the floor—causing him severe pain. They then wanted to see his wallet. When Pushpakumara saw Rs. 500 inside, he demanded to know where he got the money from. Pushpakumara then took the money and promised to return it later. Once again Pushpakumara began slapping him into confessing to the theft.

Mr. Dharmasiri was told that if he did not confess, he would be hung from the ceiling and mercilessly tortured. He was then assaulted and slapped for about 20 minutes before falling to the ground due to the force of the blows. He was told to stand up and he obeyed with the greatest of difficulty.

However Pushpakumara then kicked him viciously on the right side of his chest. He then exclaimed aloud, “This devil won’t confess, no matter how hard I hit him. Now my arms are paining”. With that, Mr. Dharmasiri was locked inside a cell. The police continued to threaten and harass him to confess to the theft. The following morning the police fingerprinted him and locked him up again. His family members also visited him and begged the police to release him, but they refused.

Then, on April 10 at about 8.30pm they recorded his statement and told him to leave. He told Pushpakumara that his chest was hurting but the policeman merely told him to get some medicine.

Mr. Dharmasiri went home, but as he suffered severe pains the entire night, he went to the Wariyapola hospital and was warded there for more than one week.

### **121. Freddy Gamage: Attack on an editor of a provincial newspaper**

The Asian Human Rights Commission (AHRC) has come to learn of an attack on an editor of a local newspaper in Sri Lanka, following his attempt to report on illegal construction in his area. Though the matter is now common knowledge and the local police in Negombo have been made aware of it, no action has been taken against those deemed responsible for the attack.

Such an attack not only affects the editor and his own rights and safety, but also is an attempt to suppress freedom of the press. Meepura is a provincial newspaper published in Negombo. It covers local stories and particularly deals with corruption and other matters of local government agencies in the Negombo area. It is a popular paper. The editor of the paper is Mr. Freddy Gamage.

On April 21, Mr. Gamage went to interview a person and to get photographs of some illegal construction at the lagoon area. At Kothalavla Bridge near the lagoon some persons claiming to be owners of the property had been attempting to fill in the lagoon in order to build a construction

there and the authorities had ordered that this be stopped. The order was communicated through the police. Mr. Gamage was trying to collect information and pictures on this issue when a group of people attacked him. After assaulting him some of the video cassettes and camera lenses were destroyed by the attackers.

Reports have been made about this incident to the Criminal Investigation Department at the Negombo police station. However, despite many requests and even newspaper publicity the police have not investigated the matter and have not taken any action. Freedom of the press is a basic right and this freedom extends also to local newspapers.

Local papers are an important part of the way in which information is provided to people on local issues. Attacking journalists engaged in such work is done to intimidate journalists and to prevent them from providing an essential service to the public.

### **122. Samantha Perera: Torture of an 18-year-old by the Bandaragama police**

On 24 April 2006, at about 9:00am, four persons visited Samantha Perera's home. One was a policeman from Colombo; one was a policeman from Bandaragama; one was working at the Colombo port but a resident in Medigama; and the other's details are unknown. They arrived at Samantha's home in a white coloured van belonging to the man from the ports.

One policeman accused Samantha of stealing a bicycle and demanded that Samantha return it immediately. He then pushed Samantha into the van. Samantha says that both his aunt Badhra and his younger brother Dinesh Tharanga were witnesses to the incident. As the van was pulling out, his mother came running, stopped the van and asked why her son was being taken away. The man from the ports said if she wanted to know why she could visit the Bandargama Police station.

According to Samantha, during the ride to the station, the police shouted at him in obscene language while the man from the ports said, "you have stolen our bike. Either return the bike or accept the theft and give us 6000 rupees". Samantha says they then took him to the Bandaragama Police station to see the loku mahatthaya (Officer-in-Charge of the Crime Division, S.I. Kasturiarachi).

This policeman also shouted at him in obscene language and slapped him several times. He forced Samantha to kneel before him, grabbed him by his hair and viciously kicked him. He threatened that he would give Samantha 10 minutes to accept the crime or implicate him (falsely) for possessing offensive weapons (Note: when a suspect is charged under the Offensive Weapons Act he/she may only obtain bail from the Court of Appeal in Colombo and not from a lower court).

The policeman ordered Samantha to stand aside. He then began a conversation with the policeman from Colombo and the person from the ports and consequently wrote something down. He again walked up to Samantha, pulled him by his hair and forcing him to walk, viciously assaulted him on his spine. Samantha screamed in agony and fell to the floor.



The policeman then climbed on Samantha's knees and stamped on them several times. Samantha was then dragged into a lock-up cell. The next morning another policeman came to the cell and told Samantha that when he is taken out of the cell he must walk without limping. Samantha refused. This policeman got angry, grabbed Samantha's wrists from between the cell bars and ordered him to put out his tongue. He then pulled hard at his tongue, scolded him and went away.

That same day, at about 9pm, the OIC of the Crime Division visited Samantha's cell and threatened him with severe torture unless he admitted to the theft. He also threatened to arrest and lock Samantha up for 14 days.

On April 26, at about 9 am, a policeman took Samantha to the police barracks. When Samantha limped, the policeman demanded that he refrain from doing so. When he tripped and fell, the policeman lifted him by his hair and assaulted him on his spine. In the barracks Samantha was told to remove his clothes. The policemen brought chilli powder in a coconut shell and liberally applied it on his eyes. They then splashed him with water. They tugged at his eyelids and re-applied the chilli powder. They hit him on the head and slammed his head against a box. All the while, they threatened him to admit to the alleged theft. Samantha says that this brutal treatment continued for some time. Finally they pulled him up by his arms and dragged him outside. At a water tap he was forced to wash himself. Later he was ordered to put on his clothes and was returned to the police lock-up.

That night, at around 9.20pm, he was taken to the OIC of the Crimes Division who again asked him the whereabouts of the bicycle and assaulted him. This policeman then recorded something in a book, asked his name and address and locked him up again. However, that same night he was visited by the OIC's wife who in an apparent bid to unduly influence him into not complaining about the harsh treatment meted out to him, brought him a fried rice meal to eat and also asked him details of what had conspired during the last few days. Samantha refused the meal. On April 27 a policeman demanded that Samantha sign a document—the contents of which were not shown to him. At about 11am he was taken by vehicle to the Panadura Police station to see the Assistant Superintendent of Police.

A policeman in civvies questioned him, wrote something down and told him to sign. He was taken back to the Bandaragama Police station where his parents had come to visit him. Accordingly Samantha was handed over to his parents at around 2.30pm. As Samantha was badly injured the parents rushed him to the Nagoda hospital where Samantha insists he told the doctors that the police assaulted him. He was admitted and examined by the doctors.

On April 28 the hospital police recorded his statement in which he detailed his assault by the Bandaragama police. That evening the Judicial Medical Officer examined him and treated him, after which he returned home. He continues to receive medicines for his injuries. This is another example of brutal torture by the Sri Lankan police. Samantha and his family firmly believe that the police were heavily bribed to illegally arrest, detain and subject him to severe torture.

### **123. Thilakarathana: Tied and hung from a pole and beaten mercilessly**

On 29 April 2006, Thilakarathana and his wife were to travel by bus to Kandy along Teldeniya Road. Thilakarathana and his wife got onto a private bus at Teldeniya. As they were sitting down, Thilakarathana noticed that two men dressed in civilian clothing had also boarded the bus and were asking for him, in order to make some inquiries.

Upon hearing this, Thilakarathana got up and went to speak with these men, who informed him they were police officers. After which, he told the police officer that after letting his wife know of the situation, he would accompany them to the Police station. The policeman responded that he was not to do this, and then escorted Thilakarathana to the Teldeniya police station. It was approximately 11am.

While being escorted, the police officer told Thilakarathana, "You know what you have done; you have broken into four boutiques in Teldeniya and stolen goods including potatoes, dahl and soap. Where are you keeping these things?" Thilakarathana responded that he did not know of anything concerning this matter.

He protested his innocence, stating that he never broke into a boutique and stole anything. He continued that on the days in question from April 11 to April 17 he was staying in Maiyangana, Bebella and therefore could not have done the act in question. The police officers failed to respond, and continued to escort Thilakarathana to the Police station; the time was then approximately 11:15am.

Upon arriving at the station, Thilakarathana was taken to the Crime Branch of the Police station, and subsequently into the office for SI Rasika. As Thilakarathana was being taken into SI Rasika's office, he noticed that in the corner of the room there were batons, and coconut strings which are used for tying objects. The police officers proceeded to pick up these objects and commented, tell the truth or we are going to beat you. Thilakarathana again told the officers, that he did not know anything, that he had not done anything and was innocent. Upon entering the room, the officers scolded Thilakarathana with obscene words, whilst attempting to tie his two thumbs together with the coconut string. However, due to some difficulties they were unable to do it, therefore the officers then decided to tie together Thilakarathana's hands and legs. The officers in addition put handcuffs on Thilakarathana before hanging him by his legs from the ceiling.

At this time, there were about four or five police officers in the room. All of the officers then proceeded to kick and hammer Thilakarathana all over his body while he was suspended from the ceiling. Thilakarathana was shouting for help and yelling that he was innocent. The police officers ignored these cries and continued to beat Thilakarathana. After sometime, the officers proceeded to remove all of Thilakarathana clothes whilst he was suspended, and then continued to beat him. During the beating, the officers told Thilakarathana that unless he told the truth that they would kill him and throw him into the Victoria Reservoir, and that they could do this, as there were no witnesses. Everywhere Thilakarathana was painning and felt damaged, but again and again they continued to ask him to tell the truth.

After some time passed, the officers then took Thilakarathana down from the ceiling. They then took a big wooden rod, and placed it in between Thilakarathana's still tied legs and arms, before suspending the rod between two tables. The officers proceeded to then beat the soles of Thilakarathana's feet with a blunt instrument, causing him to lose consciousness momentarily. He was not sure what was going to happen to him but eventually the beating stopped.

Later on, the officers untied Thilakarathana's hands and legs, after which two officers picked him up by the hands and asked him to walk. However, at this time Thilakarathana had no strength and was unable to put any weight on his legs. Therefore he was asked to sit on the chair in the room.

At about 2.30pm, Thilakarathana was taken out of SI Rasika's room into the general Crime Branch area. Here, SI Rasika was present, and he proceeded to tell Thilakarathana that he knew Thilakarathana took drugs, and that he knew how to get the truth from him. SI Rasika continued that if he gave Thilakarathana drugs he would then tell the truth. SI Rasika continued that he had worked in Colombo and could get the truth from drug users by beating them and providing them drugs; this is what he was going to do to him. SI Raskia then told Thilakarathana what was going to happen, he explained that at 10pm that evening he would take Thilakarathana into his room and provide drugs to Thilakarathana if he gave the truth. During this time, there was another female police officer present, Allakoon who following SI Silva's proclamation, commented to SI Raskia why you are waiting, give him some drugs now and get the truth. SI Raskia then kicked Thilakarathana, causing blood to flow from his mouth. After which, Thilakarathana proceeded to fall onto the floor unconscious. At about 7pm, he regained consciousness, to find himself in a jail cell covered in blood.

Early the next day, (April 30), some officers came to the cell again telling Thilakarathana that they wanted to conduct some inquiries. After which, they took him into SI Silva's room. Here, the officers recorded some details down, but the officers never asked Thilakarathana anything. The officers then asked Thilakarathana to sign the document, telling him that they wanted to take him to the Courts, so not to worry just to sign.

At about 9am the officers took Thilakarathana to the hospital. Thilakarathana was feeling very sore, tired and in pain. At the hospital, Thilakarathana asked a Doctor to provide some medication for his pains. However, the Doctor did not provide any medication, or conduct any examination, but gave the police a report. Thilakarathana was again taken back to the Police station, having not received any treatment at the hospital. Upon entering the station, Thilakarathana saw his wife was seated in a chair, however, he was taken straight to a jail cell. After this, Thilakarathana's wife managed to meet with him at the jail, where he proceeded to tell his wife of the police's treatment.

At about 2pm, the police officers came to take Thilakarathana to a senior officer's room. Inside the room, the Senior Officer proceeded to tell Thilakarathana that he was not to go to the human rights community, for the police were not going to file a case against him. The officer continued, that if Thilakarathana went to the human rights community, they would again remand him and keep him for fourteen days. The officer then told Thilakarathana that he would now be sent home, but again

reiterated that he was not to talk to anybody about the incident. After meeting with the Senior Officer, Thilakarathana went home with his wife, at about 2.30pm.

#### **124. Chamara family: Failure to pay bribe leads to family being assaulted by the Saliyawewa police**

The Asian Human Rights Commission (AHRC) has learned of a case in Sri Lanka involving a policeman and a home guard arriving at the home of a family in an inebriated state. They then accused the family of theft and proceeded to search for the alleged stolen goods. However, the family explained that they had not stolen anything and therefore whatever the policeman was looking for would not be there.

The policeman then began beating individual members of the family, including the mother and sister. Fearing that the policeman might shoot them, the family managed to confiscate the policeman's gun and throw it away. However, police backup soon arrived at the scene and all family members were taken into custody. When they were finally released the entire family required medical attention. On 3<sup>rd</sup> May 2006, at about 8pm, a policeman named (PC) Sylvester who is attached to the Saliyawewa Police station and operational at the Neelabemma zone (providing security against possible terrorist attacks as this area is one of the 'border villagers') and a home guard named Kumaratunga, visited the home of Mr. Chamara's parents. Mr. Chamara says they were thoroughly drunk and smelling of liquor.

Present at the time was Mr. Chamara, his father, mother, brothers and sister. The policeman shouted at his mother, "Where are the goods?" The mother asked, "What goods?" They then said that they would find what they had come for and went outside searching around the house using their torch lights. They returned to the inside of the house and continued their search. They accused the family members of illegally possessing timber and demanded to know where the timber was. PC Sylvester then raised his T-56 weapon and hit the mother hard on her head. He then brutally hit Mr. Chamara and his brother Mr. Tissa Kumara on their head, face and body.

He also kicked Mr. Chamara's 18-year-old sister, grabbed her arm and pulled her outside the house. Seeing his daughter being dragged by the policeman the father followed him, but was soon struck heavily by the policeman using his T-56 weapon. Unable to watch their father being hit, Mr. Chamara and his two brothers rushed and attempted to save him from the attack.

The policeman then let go of the sister and began attacking the brothers. The home guard also joined in hitting out with a club. Mr. Chamara says they were afraid that the policeman would shoot them so they grabbed the gun and threw it away. They then tied the drunk policeman to a nearby light post and prepared to take the injured to hospital when other policemen and home guards arrived at the scene. They called for a three wheel cab and sent the injured father, mother, brothers and sister to the Police station.

They sent Mr. Chamara to the Saliyawewa police with another person. Mr. Chamara's family's attempt to lodge a complaint was denied. Meanwhile, PC Sylvester also arrived at the Police station. The second in command at the station asked PC Sylvester why he did not shoot. Thereafter they were allowed to go to the hospital, from where the mother, brother, sister and Mr. Chamara were transferred to the Anuradhapura hospital. Mr. Chamara and one brother were discharged from hospital after four days. But the mother, sister, and other brother continued to be treated at the hospital.

On May 5 the father was arrested by the Saliyawewa police but released the following day. Meanwhile several policeman visited the homes of Mr Chamara's parents and brothers and removed many possessions, including door and window frames, a multi-purpose wood machine, TV stand, a writing table, a bicycle, and jewellery. Mr. Chamara and his family suspect that this was done with the intention of fabricating charges against them.

According to Mr. Chamara, about three weeks before the incident PC Sylvester and another home guard had visited Mr. Chamara's home and pointed at some timber in his house and threatened him saying, 'we will arrest you (for possessing illegal timber) unless you come to the police this evening with a bottle of Arrack (local liquor) and 3000 rupees. Mr. Chamara agreed but did not oblige. He strongly believes that this sudden visit and assault by the police was in revenge for not paying this bribe.

### **125. Dharsari: Perpetrator enjoys impunity as Pitaveddara police fail to respond to complaints of domestic violence**

The Asian Human Rights Commission (AHRC) expresses its concern of the failure of law enforcement officials to respond to complaints of domestic violence leading to wider measures of impunity for the perpetrators of this form of violence. Ms. Dharsari was married to G. Paramasivam and they had two children. During the four years of their marriage Ms. Dharsari was subjected to constant ill treatment and assault. She described her experiences as both physical and mental abuse.

On 6 May 2006, Ms. Dhasari was unable to bear the wrath of her husband any longer, so she took her youngest child and left. She went to her parents home and lodged a complaint against Paramasivam with the Hiniduma Police. On May 14 Ms. Dharsari was visited by the Pitabeddara police officials whom in response to a complaint made by Paramavisam, recorded a statement and requested for her to visit the Pitabeddara police station on May 18. Following these instructions Ms. Dharsari was accompanied by her mother when attending the said Police station where they saw Paramasivam was also present.

The Officer in Charge (OIC) recorded another statement from Ms. Dharsari and then ordered her to go with Paramasivam. Ms. Dharsari refused explaining that to do so she would be subjected to abuse at home. Due to Ms. Dharsari's resistance the OIC slapped her repeatedly on the face and

back of the head. The OIC then began scolding Ms. Dhasari's mother, abusing her in an attempt to pressure Ms. Dhasari to go with Paramasivam.

However, despite the intimidation and violence, they were adamant not to leave with Paramasivam. The OIC was infuriated and began assaulting the mother too. He then turned to Paramasivam and said, "This woman is refusing to go with you, there is nothing I can do." Paramasivam was then told to take her home but with no success. Following the incident, Ms. Dhasari and her mother left the station and as they exited the building, Paramasivam together with an officer, dragged them into a three wheeler taking them to his home.

The pair escaped when they were left unattended. Upon returning home Ms. Dhasari found that her child had disappeared; Paramasivam had apparently taken the infant away during the time when they were restrained at his house. Ms. Dhasari continues to be harassed both by the police and Paramasivam. According to the OIC, this is because Paramasivam had worked for him and maintains close links with the police. Ms. Dhasari has been informed to return to the Police station on May 28 but she is afraid of being further victimised by the police.

Although a complaint has been lodged with the Hiniduma Police in relation to the grave domestic violence, little action has been taken to respond to it. The AHRC is concerned about the high incidence of violence against women. (See further. UA-135-2006; UA-085-2006 and UP-037-2006). The failure of law enforcement officials to respond to complaints of domestic violence in a gender-sensitive and effective manner leads to a diminution in confidence in law enforcement personnel and, in turn, to impunity for the perpetrators of this form of violence.

The consequences of this impunity are devastating for individual victims such as Ms. Dhasari who are effectively denied access to criminal and civil remedies including reparations. In light of this the AHRC urges the government to more strictly monitor the behaviour of the police to ensure that all perpetrators be brought to justice, and take all necessary measures to prevent acts of violence against women, in particular those who have suffered from domestic violence.

## **126. Name withheld: Torture of a boy by the Thelikada Police**

The Asian Human Rights Commission (AHRC) has received information regarding the arbitrary arrest, detention and torture of a boy by police personnel from the Thelikada Police station. Aged only 17, the victim was detained by the police on 12 May 2006 and arrested for suspicion of theft. While in detention the victim was tortured. Upon his release the victim required hospitalisation. His perpetrators are yet to be brought to justice.

On May 12 the victim (whose name we withhold) received a message from the Thelikada police instructing him to attend the Police station. Accordingly he visited the station and was ordered by the Officer-In-Charge to stay until 1.30pm. SI Priyantha came and escorted the victim into an interrogation room where he was interrogated about the theft of a mobile telephone.

During this process the victim was allegedly shouted at and abused in obscene language. Soon after, Police Constables Soysa and Premasiri joined in the interrogation and together the officers began assaulting the victim. It was learnt that PC Premasiri twisted one of the victim's legs around his neck and whilst in that position severely assaulted him. They continued to mercilessly beat him all the while demanding for the return of the stolen mobile phone.

PC Premasiri then proceeded to grab the victim by his neck, force his head between his knees and then press so hard that the victim described the experience as suffocating. The police then removed his clothes and dragged him into the backyard where he was whipped with a piece of wire and sexually molested. After several hours of inhuman and brutal torture, the policemen recorded a statement from the victim before releasing him at approximately 4pm.

Following the incident, the victim returned home but suffered severe pain in his entire body, especially his neck, stomach and spinal cord. Thus the next day on May 13, he visited the Karapitiya hospital and was warded in ward number nine. The victim continues to suffer pain and requires continuous medical attention.

To date, no person has been charged with any offence against the victim. The Asian Human Rights Commission has been closing monitoring the situation in Sri Lanka. There have been many similar incidences where police officials have abused their powers arbitrarily exercising excessive force in interrogation processes (see further UA-167-2006; UA-147-2006; UA-138-2006). It is concerning that the number of such reported cases have increased significantly in the past year. Such a reality requires the urgent intervention of the appropriate authorities in Sri Lanka to properly address this problem.

### **127. L Sarath Vijitha: Dodangoda police refuse to register complaint**

The Asian Human Rights Commission (AHRC) has received information regarding the refusal of the Dodangoda police to register a complaint. On 24 May 2006, L Sarath Vijitha was assaulted by an anti-narcotics squad for the sole reason he knocked their van. Accordingly he requested to lodge a complaint but allegedly, the police refused to do so. On May 24, at around 7 am, Mr. Vijitha was opening his shop. As he was doing so, he noticed a white van parked near his shop.

There were about 10 people in civilian clothing inside the van. Suddenly one of them shouted, "Hey, you knocked our van door, do you know who we are". Mr. Vijitha said that he was sorry if he knocked their vehicle door. But the men would have nothing of it and grabbing him by his hair, knocked his head against their van. In particular, one person assaulted him several times.

They also verbally abused him in obscene and derogatory language. His wife and father also witnessed the incident. The people then got into the vehicle and drove away. Mr. Vijitha wanted to discover the identities of his assailants so he got on his bicycle and followed the van, which he saw

stopping near an illicit liquor-selling place. He then realised they were the anti-narcotics squad of the police.

He also noted the vehicle number as viz. 62Sri1686. Immediately he, together with his wife, went to the Dodangoda Police station, where he saw the van bearing no. 62Sri1686. At the time, the station Officer In Charge (OIC) was not present.

But the deputy OIC and another policeman escorted him to the white van and said, “Did you come to lodge a complaint?” then also threatened that if he talked too much they would fine him 2500 rupees (about USD25). Later the OIC called Mr. Vijitha into his room and told him not to make a fuss about the assault on him.

When Mr. Vijitha insisted about his violated fundamental rights, the OIC said that he was going on leave for five days and referred him to the deputy OIC who told him to return to the Police station that evening for an “inquiry” into the incident. However, when he went no such inquiry was done and instead he was simply transferred from one person to another, but for no reason. His request to lodge a complaint was denied. They also told him that it was not possible to enter a complaint against the police.

#### **128. D. Chamara Lanka: Handcuffed to a window and assaulted with metal pole**

On 27 May 2006 two policemen from the Kurunegala Police station came to the house of D. Chamara Lanka, 24-year-old three wheel driver, in Puttalam Road, Kurunegala, Sri Lanka. As Chamara Lanka was not at home at that time, the policemen left a message for him to come to the Police station.

After receiving the message upon his return home, he went to the Police station at around 5:30pm according to the police’s instruction. As the police also ordered his parents to accompany him they also went along with their son to the Police station.

The OIC of the Crimes Branch then accused Chamara of being involved in a theft at a nearby house. Even though Chamara denied this accusation and claimed that he knew nothing about the incident, the OIC simply turned down his claim and instructed a policeman to detain him. Accordingly, this policeman handcuffed Chamara to a bar of a window at the Police station and chased his parents away.

Chamara remained handcuffed to a bar of the window for several hours until about 9pm to 10pm that night. Thereafter another policeman in civilian clothes walked up to Chamara and began questioning him about the theft. He also assaulted him with a pole whilst questioning him. Although Chamara denied his involvement, the policeman continued to brutally beat the whole of his body, especially on his feet, buttocks and back for about half an hour. He then left him handcuffed to the window bar until the following morning (May 28).



At around 2:30pm on May 28, several policemen took him to another room at the Police station. They forced him to lie on the ground and placed his arms and feet together. They then inserted an iron pole between his arms and legs and suspended the pole between two tables. Due to this, Chamara was left precariously dangling by his limbs on the pole. They then began to assault him all over his body, while demanding him to confess where he hid the stolen goods. Chamara screamed helplessly due to unbearable pain but the policemen did not stop torturing him. After that, the policemen poured water on his face causing him to almost suffocate. Despite the fact that he was severely injured and unable to walk, they put him into the lock-up without giving any medical attention.

Chamara was taken to the Kurunegala General Hospital only in the afternoon of the following day (May 29). He reported to the doctors, who examined him, that he was brutally tortured by the police. However, he was brought back to the Police station after receiving inadequate medical treatment. The police then recorded his statement and forced him to sign a document the contents of which he was not informed of.

Even though a person arrested must be brought before a Magistrate's Court within 24 hours after his/her arrest, Chamara was only produced before the Kurunegala Magistrate's Court only on May 30 (three days after his arrest) with charges of theft. However, the victim insists that the police fabricated the charges. The court ordered to release him on bail. However, no one was present at the court to pose bail for him as the police did not properly inform the victim's family of his appearance in court. Subsequently, Chamara was remanded until June 4 on which date he was released on bail. As soon as he was released, Chamara was rushed to the Cooperative Hospital in Kurunegala where he obtained medical treatment for his serious injuries.

### **129. P Kusumalatha: Illegal arrest and degrading treatment of a woman by the Galle police**

The Asian Human Rights Commission (AHRC) has received information regarding an arbitrary arrest and degrading treatment of a woman by the Galle police on 31 May 2006. According to the information we have received, after the victim refused unfavourable request of a man in civilian clothes who asked her to come along with him at the Galle Train Station, a group of policemen appeared shortly later and arbitrarily arrested her accusing her as a prostitute.

The man who talked to her was later found as a policeman from the Galle Police station. She was verbally abused and shamed in public during the process of the arrest and the police continued to harass her after taking her to the Police station. While in police custody, the police did not conduct any proper inquiry to find out the actual fact but simply accused her as a prostitute without any evidence. Even though the victim was released on the same day, the police continue to hassle her in public.

Due to this the victim suffers from disgrace in her community and psychological trauma. At around 10:00am on 31 May 2006, Ms. P Kusumalatha, a 33-year-old seamstress residing in Meepawela,

Poddala, was waiting for a friend at the Galle Train Station, when a man in civilian clothes approached her and began a conversation with her. A little while later, he indicated to her that he would like to get to know her and invited her to accompany him to the Matara Bus Stand. She politely refused his proposal and he went away.

After short a while, a group of policemen including a policewoman and a policeman named Madanayake surrounded Ms. Kusumalatha and began shouting and insulting her with words like “what are you doing here?” and “Do you come here everyday?” The train station was a busy spot and soon several bystanders gathered at the scene. Ms. Kusumalatha told the police that she was only waiting for a friend but they ignored her claim and arrested her. They then took her to the Galle Police station. She noticed that the man who had talked to her was among the policemen and she later discovered that he was a police officer named Prasad.

At the Police station, the police accused Ms. Kusumalatha of prostitution and continued to harass her saying that she shamed the entire town of Galle. They insulted her with the most disparaging words. The police even told her that she must be taken for a medical check up as she might suffer from AIDS. They also threatened her not to step inside Galle again. The harassment was continued until about 2:20pm. During this period, the police did not make any attempt to conduct a proper inquiry to find out whether she is a prostitute or not.

They simply accused her without any evidence. The police then forcibly obtained her signature to the contents in a book and released her. On the next day (June 1), Ms. Kusumalatha visited a local politician's house where a policeman from Galle Police station was present at that time. Upon seeing the victim, he shouted in front of many others, "She was a prostitute who came to give AIDS to the entire village." He then chased the victim away. Due to the harassment and insult upon her by the Galle police, Ms. Kusumalatha suffers from disgrace in her community and psychological trauma.

### **130. Anton Ignatious Perera and Richard Patrick Rosary: Intimidation and threat of fabrication of murder charges against two human rights defenders**

The Asian Human Rights Commission (AHRC) writes to inform you of a disturbing incident that took place at the Wennipuewa Police station on 6 June 2006, when two human rights defenders accompanied a torture victim to attend an internal police inquiry at the Assistant Superintendent of Police's (ASP) office. The police inquiry was being conducted in relation to the alleged torture of Daundage Pushpakumara Rodrigo by Mahinda Gamini Samarakoon, then Officer in Charge at the Saliyawewa Police Post, Puttalam, on 1 September 2003.

This case is also before the High Court in Chilaw, HC 24/2004 with the next date scheduled for 4 July 2006. According to the information we have received, on June 6 Daundage Pushpakumara Rodrigo was requested to appear for the second time for the police inquiry being conducted at Wennipuewa Police station.

Due to the fact that there have been threats on his life, he was accompanied by Anton Ignatious Perera and Richard Patrick Rosary, from the Human Rights Organization 'Home for Victims of Torture' which is also affiliated with the AHRC.

The inquiry was scheduled to begin at ten in the morning, however despite the presence of Daundage Pushpakumara Rodrigo, his mother and uncle, the inquiry did not begin until 10.30am when the prosecuting officer, the chief inspector arrived at the ASP office. Over the next hour the inquiry took place, with the questioning of Daundage Pushpakumara Rodrigo, whilst the two human rights defenders were situated outside of the Police station but within the premises. At about 11.30-11.45am the Chief Inspector left the ASP office to inquire as to the attendance of the presence of each person in the vicinity.

The Chief Inspector questioned whether Anton Ignatious Perera and Richard Patrick Rosary were from the Human Rights Organization to which they responded they were. After which, the Chief Inspector asked for their identity cards, to which Anton Ignatious Perera produced his National Identity card, only to be scolded by the Chief Inspector who wanted his Human Rights Identity card, following which he told the two men that he could not trust them and proceeded to shout at them to get out. Anton Ignatious Perera and Richard Patrick Rosary then promptly left the premises remaining on the roadside, whilst the Chief Inspector returned to the inquiry. Daundage Pushpakumara Rodrigo reported he felt that during the inquiry, the inquiring officer was supporting Mahinda Gamini Samarakoon.

This was because the inquiring officer would ask Mahinda Gamini Samarakoon as to which questions he would like asked of Daundage Pushpakumara Rodrigo. In addition, two of the officers present in the room continuously questioned the relevance of some of the inquiring officers' questions, as they were not with relation to the alleged torture, but with regards to the support being given to the applicant in the pursuit of his complaints against this man. Following the conclusion of the inquiry, Mahinda Damini Samarakoon in the company of all who attended the inquiry, issued that the two men who had been chased away from the premises had come to the inquiry with the intention to murder him, and that as a result he wished to lodge a police entry against these two persons.

According to Daundage Pushpakumara Rodrigo, Mahinda Gamini Samarakoon continued to issue and even shout about this both inside and outside the ASP office. As a result, Daundage Pushpakumara Rodrigo promptly went to find Anton Ignatious Perera and Richard Patrick Rosary, and informed the two human rights defenders of what had been said, and as such they immediately caught the next bus back to the office of the Home for the Victims of Torture. Anton Ignatious Perera and Richard Patrick Rosary are fearful that a complaint will be lodged against them with regards to these false allegations of an attempt to murder and are deeply distressed considering their attendance at the inquiry was simply to accompany Daundage Pushpakumara Rodrigo.

### **131. Illukumbura Mudiyanse: Lost hearing from torture**

Illukumbura Mudiyanse, a 49-year-old trader, was severely tortured by the Thalathuoya Police on 9 June 2006. Due to torture, the victim received considerable injuries over most parts of his body and suffered complete loss of hearing in his left ear. According to the victim, the police falsely charged him with selling cannabis due to his complaint against a timber mill owner who has good connections with the OIC of the Thalathuoya Police. Despite his complaint to the HRC, no serious action has yet been taken against the alleged perpetrators.

According to the victim, he got into a heated disagreement with the owner of the local “Sugath Timber Mills”, who refused to pay him his due broker fee of Rs. 9000 (approximately USD 100), plus the additional cost of damages to the culvert and the road due to the transportation of timber logs. Mudiyanse lodged a formal complaint against the owner with the Thalathuoya Police station on 8 June 2006, but they took no action.

At around 1:30pm on the following day (June 9), Police Sergeant Thushara visited Mudiyanse at his family home, where he then proceeded to shout at him with extremely abusive language. That same night, at around 8pm, two Thalathuoya police officers in civilian dress entered Mudiyanse’s home. They stated that the OIC of the Thalathuoya Police station wished to get a formal statement from him, following his complaint. They then took Mudiyanse in a jeep to the Police station. Upon arrival, Mudiyanse claims that he saw the timber mill owner with whom he had had a disagreement the previous day. The OIC arrested Mudiyanse on the charges of selling marijuana, an allegation which Mudiyanse ardently denies, and which was not substantiated by the local police with any conclusive evidence. According to Mudiyanse, the OIC took a green hosepipe and proceeded to beat him over the head with it at least 20 times.

He then placed a small packet wrapped in paper in Mudiyanse’s hands, saying, “Here is the ganja!” Mudiyanse threw the packet onto the officer’s table. Some hours later, another police officer ordered Mudiyanse to place his fingerprints on the packet of ganja. Mudiyanse out rightly refused to do so; and was again taken to the OIC, who allegedly ordered the police officer to obtain Mudiyanse’s fingerprints on heated lacquer. The police officer did as requested; severely burning Mudiyanse’s fingers in the process. Mudiyanse was then detained overnight at the Police station.

The following day (June 10), the Assistant Superintendent of Police (ASP) made one of his routine inspection visits to the Thalathuoya Police station. When he came to the detainee lock-up, Mudiyanse told him of his ordeal, and that he was completely innocent of the charges that had been brought against him. The ASP questioned the Thalathuoya OIC on this. After the ASP left, the OIC came to the lock-up and verbally abused Mudiyanse.

The JMO of the Thalathuoya Government Hospital later examined the victim, and the following day, he was presented before the additional magistrate of Kandy, who remanded him to the Bogambara prison. Mudiyanse was subsequently released on the June 15, on bail of Rs. 1000 (approximately 10 USD).

Mudiyanse incurred injuries to his head and most other parts of his body, and burns on his left thumb, and suffered complete loss of hearing in his left ear as a result of his torture. He lodged a

complaint with the HRC regarding the incident with the help of a local human rights organisation in June 2006.

### **132. Mallikage Ariyadasa: Brutal assault on a 65-year-old by the Kananke Police at the instigation of a third party**

On 11 June 2006 around 10pm, Mallikage Ariyadasa, 65, was arrested by the Kananke Police and taken to the Kananke Police station in Matara District— allegedly at the instigation of an influential third party. At the Police station, he was handcuffed and severely assaulted by several policemen in the most inhumane and brutal manner. Ariyadasa says that they assaulted him with their fists and boots until he collapsed to the floor. Then they dragged him along the floor to a holding cell where he was kept without food or water for almost two days.

The next day (June 12, 2006) the police took Ariyadasa to see a doctor at the Immaduwa District Hospital where he managed to tell the doctor that the police had assaulted him. On June 13, Ariyadasa was taken to the Matara Magistrate's Court and charged with a criminal case, which he insists the charge was fabricated. However, he was remanded by the Magistrate and sent to the remand prison. After he brought his injuries to the notice of remand officials, they afforded him medical treatment for his injuries at the remand hospital.

During this time, Ariyadasa's son Indika Kumara visited the Kananke Police OIC and inquired from him the status of his father. The OIC had advised him to meet with a lawyer named Priyani who would assist him in obtaining bail for his father. Accordingly, Kumara visited lawyer Priyani, paid her the required fees and got Ariyadasa released on bail. He however, later discovered that lawyer Priyani was in fact the wife of the said OIC of the Kananke Police.

Later Ariyadasa complained about the incident to the Assistant Superintendent of Police, Galle and in response was informed to attend the Kananke Police station on 12 July 2006 at 9:30pm presumably for an inquiry into the incident. Ironically this was the same Police station at which he was severely assaulted and thus it is hardly likely that justice would be served at that Police station. When Ariyadasa arrived at the Police station a policeman informed him that the OIC was not present and thus to return after 2pm. When he returned at the said time, he was taken to meet with the OIC who addressed him rudely and in threatening language. The OIC told him that if Ariyadasa ever again complained to 'high-up places' (e.g. the ASP-Galle), he would (falsely) charge the victim for the possession of bombs and put the victim into larger problems including long time imprisonment at the remand prison.

At this point it is worth noting that under the Offensive Weapons Act, bail can only be obtained from the Court of Appeal in Colombo. As most people in rural areas are financially and otherwise unable to travel to Colombo, retain a lawyer and obtain bail from the Court of Appeal, it is not unusual for suspects to languish in remand for a few years until their cases are finally heard and

disposed of. Thus it is common that this law is frequently utilised by the police to intimidate, threaten or harass torture victims and their families subsequent to the torture.

Ariyadasa further said that on 11 June 2006 a little while before he was arrested, several of his neighbours known as 'Dokan', Peththa', Wiliyens' and others had forcibly entered his house and stolen Rs. 37, 000 in cash. They had then maliciously lodged a complaint against Ariyadasa implicating him with sexually abusing two boys.

On 20 July 2006, Ariyadasa also complained about this incident to the Matara branch of the HRC. On 27 March 2007 he received a reply in the form of a letter in which the HRC informed him that the information provided by him did not have enough evidence to support the claim that his fundamental rights have been violated, and therefore the HRC was disposing of the case. To this response, Ariyadasa, from the little legal knowledge he has acquired during this rather traumatic period, wonders how the people could deny the violation of the rights of the victim while noting that he was arbitrarily arrested and detained for over two days, brutally tortured and threatened to be charged with a fabricated case.

Ariyadasa complained in writing to all the authorities concerned including the IGP, NPC, the HRC Head Office in Colombo, and others demanding immediate disciplinary and legal action be taken against the alleged perpetrators of the Kananke Police. He also requested that future inquiries regarding his case be held at the HRC Head Office.

**133. Jenny Violet: Second assault and serious threats made by police informer attached to the Mirihane Police** The Asian Human Rights Commission has come to learn of a second assault instituted by a man who is a police informer attached to the Mirihane Police. In both incidents the alleged perpetrator threatened the victims that they too would suffer the same fate as Gerald Perera. That this man believes it is acceptable for him to assault others and threaten them is intolerable. That the police are not taking action to prevent him from doing this again is a matter for urgent intervention by government authorities.

Jenny Violet, a 53 year-old married woman was physically dragged out of her premises by the hair on 25 June 2006 by Jayasantha, a police informer attached to Mirihane Police station. She was then taken to another house where she was assaulted severely. She was admitted to the Base Hospital at Gampaha at around 7:30pm on the same day and is still receiving treatment for her injuries.

While assaulting Ms. Violet the perpetrator stated, "The the same thing that was done to Gerald Mervyn will be done to you". This is a reference to the late Gerald Perera who also lived in the same neighbourhood and who was assassinated while waiting to give evidence in a torture case against several police officers. According to information given to the investigating officers regarding the assassination, this same Jayasantha was identified as the person who befriended Gerald Perera and who took Gerald in his own vehicle to the bus in which he was shot.

The bus in which Gerald traveled was followed by a car in which the assassin traveled. This car overtook the bus allowing the assassin to board the bus and subsequently to shoot Gerald. The suspicion is that after getting Gerald into the bus Jayasantha passed the information to the driver of the car in which the assassin traveled.

Despite this being reported to the inquiring officers Jayasantha was never arrested or produced as a suspect in the murder case of Gerald Perera. On June 16 the AHRC also reported another assault by this same Jayasantha on D.M. Chandrani Dissanayake, the wife of A.P. Nimal, who also lives in the same neighbourhood. Though complaints have been made regarding the attacks on both Jenny Violet and Chandrani Dissanayake no investigations have been conducted by the police.

The two families believe that the police are protecting this police informer who also has the protection of some other police officers due to his alleged involvement in Gerald Perera's case which has received wide publicity in the country as well as internationally. The two families of the victims feel that the criminal actions of Jayasantha will not be properly investigated or prosecuted. Besides this, Jayasantha himself has been claiming that he gets the protection of the police officers.

These two neighbouring families fear that Jayasantha will attack them again and may do harm to the husbands of the two women also as these men have made complaints to the police regarding the assaults. It is also feared that the family of Gerald Perera, which is also residing in the same neighbourhood, may also be further harassed or come to more serious harm by Jayasantha. Everyone in the neighbourhood, particularly the two families mentioned above and that of Gerald Perera request a serious inquiry into the matter and also criminal action to be instituted against Jayasantha. The neighbours also seek protection against any further criminal actions by him.

#### **134. Saman Rohana Manawadu: Arbitrary arrest and harassment of a man by the Ingiriya police**

The Asian Human Rights Commission (AHRC) has received information regarding the illegal arrest and detention of a man named Saman Rohana Manawadu by the Ingiriya police. Mr. Manawadu was arrested and his van was confiscated due to the police's claim that his van was a stolen vehicle and used in a murder. The next day, after his father brought all documents pertaining to the vehicle, he was released on bail.

The victim insists that he was illegally detained and harassed by SI Chandana and the Ingiriya police because he rejected SI Chandana's previous request to use his vehicle for personal errands. At about 7:30pm on 28 June 2006, Mr. Saman Rohana Manawadu, a 39-year-old trader from Nugadanda, Ingiriya, Sri Lanka was traveling in his van (No. JA8412) when he was stopped by Sub-inspector Chandana and another policeman from the Ingiriya Police station.

The police told Mr. Manawadu that they received a 'message' that the van was a stolen vehicle. At that time, the two policemen were in civilian clothes. Mr. Manawadu showed his driver license and insurance papers to the police to prove that the vehicle was legally possessed by him. The police also

could not find anything suspicious inside the vehicle. However, they still arrested Mr. Manawadu and took his vehicle to the Ingiriya police station where the victim was detained.

About one hour later, Mr. Manawadu's father arrived at the police station with all documents pertaining to the van. Very strangely the police further claimed that the vehicle was suspected of being used in a murder case. The officers then requested a clearance from the Registrar of Motor Vehicle (RMV) department to hold the van. As a result, Mr. Manawadu was detained at the police lock-up overnight. The next day (June 29), Mr. Manawadu's father returned to the Police station and managed to release Mr. Manawadu on bail.

They also obtained an order sheet from the Officer-in-Charge (OIC) of the Ingiriya Police station for the release of the vehicle. But the police dragged their feet in releasing the vehicle and only did so at about 5:30pm. At the time, the police also forced Mr. Manawadu to sign a statement without showing its contents. According to Mr. Manawadu, he believes that he was illegally detained and harassed by SI Chandana and the Ingiriya police because he rejected SI Chandana's request to use his vehicle for personal errands about six months earlier.

Although Mr. Manawadu admits that he had obliged the request in the past, he later became unwilling to continue the practice. He further said that SI Chandana had made the same request on several previous occasions and was again denied the use of his vehicle. Mr. Manawadu believes that SI Chandana is harassing him to seek revenge over the matter.

In Sri Lanka, the police are notorious for misusing their authority for personal reasons. For example, the AHRC has previously reported on the case of the brutal torture of two young men, who simply requested that the police, who allegedly took their motorcycle without informing them, return their motorcycle (See further: UA-136-2005, UP-97-2005, UP-98-2005 and UP-113-2006).

In another case, family members were allegedly assaulted by the Saliyawewa police in May 2006 because they failed to pay a bribe that was directed towards them (See further UA-149-2006). The Sri Lankan government must establish strict discipline within the police force to stop such crimes on ordinary people.

### **135. Amitha Deepthi Kumara: Arrested with a friend and illegally detained**

At around 8:30am on 28 June 2006, Meegahathenna Police arrested Amitha Deepthi Kumara (22) along with a friend, while they were walking along the road. The police did not show any arrest warrant during the process of the arrest. The two men were then taken to the Meegahathenna Police station where they were brutally assaulted by the police.

The police accused Kumara of involvement in a case of theft. After being informed her son's arrest, Kumara's mother went to see her son on the next day (June 29) but the police did not allow her to meet him. However, she did learn about the brutal police torture of her son. The mother then



informed the HRC via telephone and fax regarding her son's illegal arrest and torture on the same day.

On June 30, a local human rights group called Janasansadaya also reported this incident to the HRC via fax about the continued torture of Kumara. However, Kumara remained in police custody and continued to be tortured. The Meegahathenna Police had not brought the victim to the magistrate's court six days on from his arrest (i.e. 28 June to July 4) and had detained him illegally. Janasansadaya brought the case to the notice of the IGP, NPC, DIG - Legal Division, SSP of Kalutara and Attorney General by sending the letters both by fax and postal mail. All these institutions were urged to take immediate steps to secure the release of Kumara or have him produced before the courts without delay.

### **136. M.S.F. Perera: Arrested on mistaken identity on the allegation of making bomb threats by telephone**

Mudalige Sunil Fermin Perera, a 55-year-old man residing at 55 1/A Pitakotte Kott, died from injuries received as a result of torture he allegedly suffered while in prison custody and another man namely Linton Gamini Munaweera, who was arrested along with M.S.F. Perera, was severely injured. On 28 June 2006, the two men mentioned above were arrested by Ratnapura Police on the information supplied by the Vice Principal of Mihindu College, Ratnapura which is about 90 km south-east of the capital Colombo, regarding the bomb threat creating a false alarm in the College.

The two men were taken in by the Ratnapura Police at midnight on June 28 and produced before the Magistrate, N.V. Karunatileke, on the following day (June 29). They were remanded on the complaint filed by the Ratnapura Police. They were arrested due to the allegation that Linton had made a telephone call delivering a message regarding bomb threats and causing a situation of fear among the school community. However, both men denied the charges. They were remanded at the Kuruwita Remand Prison. After being jailed on June 29, the two men were severely tortured by the Jail Guards.

It is now alleged that a school vice principal had wrongly supplied information to the police upon which they had depended and arrested these two and remanded them without any foundation. Only later when they checked they found that the persons tortured had not given calls on that particular day and earlier they had taken some calls on account of a business deal of supplying balloons to some celebration in the college. This call had been misrepresented as the alleged misdeed on June 28. The police in their motion had declared that they had already identified another person who had given the call. Police Officer B. Solngarachchi submitted a motion on July 3 and wanted them released because they were innocent and that day they had not made any telephone calls from their cell to the Mihindu College.

Accordingly, on July 3, the magistrate ordered both accusers to be released, but prison officials did not execute the order. On July 4, the victims were brought before the magistrate's court. The

magistrate noticed that M.S.F. Perera had problems walking and was escorted by the two jailors. As he was barely conscious, he was given a seat. He was in fact severely tortured on the lower legs. Furthermore, he was unable to say anything because of his condition. Then the second accused Linton Munaweera was asked to enter the box and then his lawyer Ben Abeyratne stated that his client was also tortured by the jail guards while in prison.

The magistrate ordered that a statement be obtained from the vice principal and his inability to read the records from the telephone be further investigated. The magistrate noted the difference of the appearance of the first accused and when a relative requested that he be taken to the National Hospital, the magistrate ordered the police post at the hospital to take a statement when he gained full consciousness. Subsequently, the two men made a report to the HRC. Meanwhile, M.S.F. Perera succumbed to his injuries at the hospital in Colombo on July 6.

### **137. Dhanuka Tisara: Illegal arrest, brutal torture and fabrication of charges**

On 2 July 2006, Kalutara South Police arrested Dhanuka Tisara and took him to the Police station on the accusation of committing murder, without any evidence to support this. He was then brutally tortured to extract a confession. He was later released on the same day without charges being filed against him.

After he submitted his written complaints regarding his case to IGP and police department, Dhanuka Tisara received a notice to appear before the ASP of Horana by 10am on 27 October 2006 for an inquiry into the complaint. On that day, he went to the ASP's office along with his mother Malini Soysa in time but they were made to wait for one-and-a-half hours.

At about 11:30am, a policeman began recording the statements of Tisara and his mother. But according to the victim's mother, the policeman, instead of inquiring into the details of the victim's brutal torture, asked questions, which were totally irrelevant and in fact degrading to them. These questions include (i) details of Soysa's parents and her children, (ii) where she gave birth to Tisara, and, (iii) whether she was legally married at the time of his birth.

The policeman had also perused a document written in English and commented, "So you are taking legal action with the help of some Asian organisation" (presumably the AHRC). He also commented, "Those from Pinwatte commit wrong and then run for human rights, heh?" Tisara alleges that he also referred to the other children in the family in a disparaging manner. At the same time, the policeman recorded few details of the actual incident and asked them to leave. The victim and his mother had a strong impression that the inquiry was conducted in a biased and improper manner in favour of the alleged perpetrators.

### **138. Gune Ayyas: Beaten and humiliated by police who threatened to 'disappear' him**

On 9 July 2006, at about 1.30am, police stopped the victim while he was returning home after attending the funeral home of Gune Ayyas' mother. The police were in civil clothes at the time. They told the victim's friends to go away as it was he who they were after. At that point they began to brutally beat the victim.

After beating the victim for some time the police then asked him where the kasippu (illegally made liquor) was located. The victim maintained that he was not in possession of any kasippu. The police then made the victim take off his shirt and tied this around his mouth. They then put him in their nearby jeep and drove to the Police station.

Once at the Police station the victim was forced to strip naked and to walk around the building. During this time he was also beaten once more. He was then told to sit on a table where he remained until 6am that morning. At that point SI Hettiarachchi came and warned, "If you don't tell me the place, even now, I know where you should be left". When, one of the victim's fellow villagers phoned the Police station and asked whether he was there, Hettiarachchi replied "no". Further, he told the villager that the person in question (the victim) was not taken to the Police station. Such a statement led to the victim's fears that he might be disappeared.

On July 10 at about 9.30a.m, the police released the victim. At 1.30pm he went to the Peradeniya Government Hospital due to the severe pain that he was suffering. As patients were not being admitted that day, the victim instead went to the Kandy General Hospital where he was admitted. The JMO attended to him and wrote down his details. He was discharged the following day. Upon his release from hospital the victim approached the Human Rights Office in Katugastota to lodge a complaint.

### **139. Hevamarambage Premalal: Beaten mercilessly with poles causing extensive injuries**

On 11 July 2006, between 1:30 and 2am police approached the victim, Hevamarambage Premalal, at his home by officers from the Wanduramba police. They told him to put a shirt on and to accompany them, as they needed to take a statement from him. One of the officers the victim identified as PC Lasantha.

As he walked from his home, Sgt Samaranayake struck the victim in the mouth with a wooden pole. The victim was taken in a jeep to a place where police sign patrol logbooks and then on to the Police station. At the Police station the victim was handcuffed and hung from above, with his feet unable to touch the ground. The officer who drove the jeep was the one who hung the victim in the cell.

While the victim was hanging from the handcuffs, Sgt Samaranayake approached with a wooden pole and began beating him across the back and head. In fact the beating was so severe that the pole broke into pieces. The police then left the victim alone but returned a short time later evidently drunk and holding iron poles. They then began beating the victim again with the poles, until the point that he lost consciousness. When he regained consciousness the victim asked for water, which

PC Lasantha brought to him. PC Nimal Ranjith then asked what happened to him and the victim explained the events.

The following morning Sgt Samaranayake returned with a sarong. He took the victim outside with two other persons and bathed him. After that he was put behind a jeep where he overheard discussions amongst the police saying that they would take him away along small remote roads, being careful to avoid the main roads. It was then that the victim realised he was at the mortuary of the Karapitiya Teaching Hospital. At that point the victim lost consciousness again and is unaware what happened to him at that time.

Some time later when he regained consciousness the victim discovered that he was in hospital. He was still handcuffed and there was a chain attached to the handcuff and the bed. He realised that he was under remand custody but did not know the reason for this or what the charges were that had been laid against him.

An examination was conducted on the victim at the hospital. According to the JMO, the victim has been seriously assaulted with a blunt weapon and is under dialysis. He also noted that (direct quotes from his report):

“1. This person’s upper body and lower body has been beaten. According to the marks on his body he has been assaulted with two types of blunt weapons.

2. The upper part of his body has been beaten with a blunt weapon and there have been internal injuries, there are not much external injuries visible, however, internal muscles have been harmed, there have been injuries to internal organs.

3. The marks due to beatings below waist are very visible. There are external injuries. Due to that internal muscles has been broken and there have been internal bleedings.

4. There have been a lot of blows been given the back side of the victim. One could count some of the injury marks below waist but not some others.

5. Due to beatings there have been internal bleedings and due to that there have been malfunctioning of kidneys. He is passing urine through a tube. He will take months to recover and at least has to spend 1-and-a-half months in the hospital.

6. There are injuries on the wrists indicating that he has been handcuffed and possibly hanged from them.

7. His legs too are swollen due to injuries to muscles.”

#### **140. D. Dilan Samaranayake: Assaulted after crashing into police bike**

On 2 August 2006, a mysterious phenomenon occurred in Sri Lanka when people reported seeing 'rays' of light emanating from Buddha statues around the country. Hence around 7pm 15-year-old D. Dilan Samaranyake, a student of Sri Sumangala Boys' School in Panadura, rode his bicycle towards the Galthude temple in Panadura to satisfy his curiosity. Suddenly a bicycle ridden by SI Neville of the Panadura (South) Police station came from the opposite direction and crashed into young Dilan and knocked him down.

Even though Dilan fell down, the SI Neville began assaulting and kicking him. The SI then pulled Dilan up and dragged the boy towards his home. He took hold of Dilan's bicycle, while the boy was forced to wheel his bike. On the way the SI continued to assault Dilan and also scold him with abusive language. At his house, the SI recorded Dilan's name and address and also threatened Dilan that unless he repaired his bicycle, he would confiscate Dilan's bicycle. Dilan was then chased away.

When Dilan returned to his home, he was thoroughly shaken and began vomiting and feeling feverish. Hence the following day on August 3, his parents visited SI Neville and inquired as to why he assaulted their son. The SI then scolded and shouted at them. Later the parents visited the Panadura (South) Police station and tried to lodge a complaint against SI Neville. According to the parents, SI Neville remained by their side and constantly interrupted the recording of their complaint. Finally the parents were forced to sign a statement without being informed about its content.

Thereafter the parents brought young Dilan to Ward No. 1 of the Panadura Hospital, where a JMO also examined him and recorded details of the incident. According to the doctor's report, Dilan sustained injuries on his head and sexual organs. No serious action was taken to investigate the incident.

#### **141. Sinnappan Abraham Kiragory: Brutal torture and custodial death of a father of three by the Eheliyagoda police**

Accordingly to V. Pushpaleela, the wife of the deceased, on August 13, 2006, Sinnappan Abraham Kiragory together with several of his friends were arrested by the Eheliyagoda police on suspicion of committing a murder. They were travelling in 2 three wheelers when they were apprehended by about 10 policemen who came in a jeep and a white coloured van and arrested them. She also says that from the time of arrest, the policemen who were carrying whips, lashed out at the men, tied their hands behind their back with wire and forced them into the police jeep. A policeman accompanied her and her 2 children, a girl aged 11 and boy aged 7, in a three wheeler to Police station.

Name of deceased: Sinnappan Abraham Kiragory, 41 years; married with 3 children aged 12, 11 and 7.

Wife: V Pushpaleela.

Occupation of deceased: trader in clothes (pavement hawker) in Colombo at the time of his death.

Name of perpetrators: the OIC and 10 policemen attached to the Eheliyagoda police station, including policemen Perera, Abeygunawardena and Nishanka.

Date of incident: 13 to 15 August 2006 and continuing.

Ms. Pushpaleela says it was about 9.30 a.m. when they reached the police station. The 8 men including her husband were taken with their hands tied behind their back and locked up in a cell. The police forced her and the children to sit on a bench. She was then ordered to remove all her jewellery and hand over the items; even the ear studs of her 11-year-old daughter were not spared.

The police had said this was for purposes of 'safekeeping'. The jewellery amounted to about Rs. 70,000. The police had also confiscated the husband's Nokia mobile phone, his diary, ID card and other documents. To date none of the items have been returned. Then the police began to interrogate the prisoners. Each suspect was dragged out of the cell and the ten policemen pounced on him with batons, poles and clubs.

They pummelled them all over their bodies heedless of their screams of agony. Her husband was so severely assaulted that she suspects his legs were broken and he slumped to the ground. One of his attackers had then jumped on his body and continued to assault him on the stomach. The suspects were then handcuffed and put into the cell again. This 'treatment' she says was continued on a rotation basis for the rest of the day. That is, each suspect was pulled out, beaten and thrown back into the cell over and over again. At nightfall the policemen brought a bottle of liquor and glasses. They consumed the liquor and then resumed the torture of the suspects.

Despite the men complaining of their arms and legs being fractured and that they were in severe pain, no medical treatment was offered to the suspects. However, the most shocking feature of this cruelty was that two terrified, under aged children were forced to watch their father being so brutalised. As a result Ms. Pushpaleela says the children are currently suffering from severe mental trauma and the 7-year-old shudders when he sees a policeman and the young one has vowed to take revenge from those who killed his father. The entire family was detained at the Police station the entire day.

The following day, the 14th about 10.30 a.m. Ms. Pushpaleela and her two children were released. But when she requested her jewellery from Sub Inspector Abeygunawardena he refused to return it and told her to come back another day. The police told them not to go back to the village so she went to Colombo. Ms. Pushpaleela says she would have been further incarcerated but luckily her brother in law had retained a lawyer who phoned the police and urged them to release them. Later her husband's friends told her that at about 6.30 p.m., and after the courts had closed for the day, the suspects were taken to a residence, which they thought belonged to the judge (most likely an acting magistrate).

They were kept in the vehicle while the police obtained an order to remand them. But then, instead of taking them to the remand prison, the policemen once again took them to a building adjoining the Police station, which they suspected to be the quarters of the OIC, blindfolded them and

assaulted them again. They were then taken to the Kuruvita remand prison about 10.30 p.m. At the time the husband's condition was serious so he had been taken to the Ratnapura Hospital by a prison vehicle and 4 prison guards stayed with him in the hospital. By the morning of the 15th he was dead. The others had been taken to hospital the next day but treated and brought back, because it was said there was a threat to their lives.

Meanwhile Ms. Pushpaleela was afraid to return to her residence, so she had taken the children to Colombo to a relative's home. On August 17, 2006 she made a complaint to police headquarters in Colombo. On the 18th she returned and took possession of her husband's body. She also says that on the 19th three officers claiming to be from the CID visited her in Colombo wanting to record her statement. She was taken to the Grand pass Police station where she made a statement but when she asked for their contact number, they would not give it to her. However, Ms. Pushpaleela said that they had come in a vehicle belonging to the Eheliyagoda police and had a copy of her complaint made to the police HQ on 17th. She also complained to the Human Rights Commission on the 20th. The policemen responsible for this brutal torture and murder are still continuing at their jobs at the same station.

They are also spreading a rumour in the Estate that as she is the only witness to the incident, she must be killed. Thus she believes her life is in grave danger. This is a tragic case of police brutality that resulted in the needless death of an innocent man and has also left three school-going children fatherless and destitute.

We therefore urge the relevant authorities namely, the Inspector General of Police, the National Police Commission, Human Rights Commission and the Attorney General's Department to: Immediately begin investigations into the death of Sinnappan Abraham Kiragory by policemen of the Eheliyagoda police;  
Hold a disciplinary inquiry and take immediate action against the offending policemen. Institute proceedings against them in a court of law;  
Take action against the acting Magistrate for remanding severely injured suspects without even seeing them solely on the version of the police;  
Afford compensation to the wife and three children of the deceased to enable them to continue their education and for the irreparable loss caused to them by the law enforcement agency of the country.

#### **142. I.A. Nishantha Chandrasiri: Forced abduction and brutal action against victim's family by police**

On 23 August 2006, six or seven persons abducted I.A. Nishantha Chandrasiri while he was visiting the house of a sister, who put him in a white van. At the moment of abduction he and his family members were beaten with rifle butts, hands and feet. The family members were blamed as to why they allowed Nishantha Chandrasiri in their house. His hands were tied with a T-shirt he was wearing and he was taken out to a van.

According to the family, some weeks before the abduction on August 23, the OIC of Navagamuwa had visited the family house of Nishantha Chandrasiri and told them that he was wanted for some robbery. However, the family is not aware of any such involvement. The following day, those who were subjected to the beating went to Nishantha Chandrasiri's house and informed his wife, W. Dinasha Sangeewani Kumari about what had happened. With suspicion that the victim might have been taken to the Navagamuwa police station, the victim's wife and brother went to the station. They reached the station at 9am and complained to the OIC, who shouted at them asking, "Is it now that you have thought of the police and why have you come?" The two persons explained that had come to look for Nishantha Chandrasiri.

The OIC told them that, "We have not brought him. If we get hold of him, we will kill him. Even by now there won't even be pieces of him." The OIC did not allow a statement to be recorded from them. He told them to go to other police stations and have a look. The two family members went to the Mirihana Police, the police stations at Hanwella, Athugiriya and Pellyagoda but could not find him. On the same day they visited the Human Rights Commission of Sri Lanka and informed the commission that the Navagamuwa police had refused to take a statement. An officer from the commission talked to the Navagamuwa police and thereafter the victim's family members were asked to go back again to the station. At around 8pm, they went and informed the officers the reason for their coming and then a statement was recorded. They left the Police station at around 10pm.

About a week after having received news that he was being kept at the Criminal Investigation Unit at Dematagoda the members of the family visited the place and were shown Nishantha Chandrasiri through a small peephole, seated on a bench in a dark room. They were not told any details and thereafter despite attempts they were unable to obtain any further information. The family believes that the OIC of Navagamuwa was aware of what might have happened to Nishantha Chandrasiri. They visited the one-man Commission on Abductions and Disappearances appointed to look into disappearances, which is headed by Mahanama Thilakaratne, and made a complaint. Despite attempts by the victim's family in making complaints to the police, the HRC and the one-man Commission on Abductions and Disappearances, the family could not get any information.

### **143. Suddage Sirisena: Brutal torture by intoxicated police**

At around 11am on 24 August 2006, Suddage Sirisena was leaving a meeting at his village's Buddhisttemple in Millewa, Maradankadawela, when two police officers on motorcycles signalled for him to approach them at the gate. The officers were in uniform and had Sirisena's son Piyasiri with them who had originally pointed his father out to the police.

As soon as Sirisena approached the policemen, one officer (wearing badge No. 47934) immediately assaulted him. He was struck on his ears and was then forced to lay his head on the ground while the policeman punched him on the back of his neck. The policeman then viciously kicked Sirisena before ordering him to get onto one of the motorcycles. When Sirisena refused to comply with the



order, one of the officers grabbed his helmet, which was dangling on the motorbikes handles and smashed into his face so hard that he lost consciousness.

Sirisena awoke and found himself under a tree lying in a pool of his own blood beneath a crowd of onlookers. He felt dazed and was unable to comprehend what had befallen him. A relative and his neighbour then helped take him to a local hospital where he told the doctors that the police had assaulted him. However, the village hospital was apparently not equipped to treat his injuries and refused to ward him. He then was rushed to the Kekirawa hospital where he was admitted and once again he gave the details of what had happened to him to the doctors.

Sirisena says that as a result of the assault he suffered two dislodged front teeth. Three other teeth were loosened and were later extracted at the hospital. On August 28, Suddage he was discharged from the hospital after being cleared by the JMO.

After Sirisena was discharged from hospital, various policemen attached to the Kekirawa police repeatedly harassed him, including the perpetrator, who has tried to amicably settle the matter. He says that the perpetrator now begs him not to pursue the issue in consideration for the welfare of the policeman's family. He also says that on August 26, the ASP of Anuradhapura visited the scene of the incident and recorded statements of witnesses.

Sirisena was not aware of why he was brutally assaulted by the Kekirawa police but thinks that his son, who is a suspected illicit liquor trader in the area, as well as an army deserter who has a personal animosity with him, induced the police to beat him.

#### **144. Wasantha Kumara: Torture victim threatened to withdraw complaint**

Wasantha Kumara, who tried to register the case of robbery, was brutally assaulted by one sub inspector of the DIG-Galle Office on 24 August 2006. The victim then began receiving threats from the ASP after he attempted to lodge a complaint against the concerned SI. It is alleged that the ASP further threatened the victim that he would be abducted and subsequently disappeared if he pursued the case.

A robbery took place at the house of Wasantha Kumara's aunt in Pamunugamuwa, Tal-ambara, Matara. On 29 June 2006, Kumara complained with the Weligama police regarding the incident. Although the police had an eyewitness who identified a suspect, the officer of the CID in the Wasantha Police station allegedly suggested to the victim to drop the case. Disturbed by the police inaction, Kumara and his aunt complained to the ASP of Akuressa on 4 July 2006, then to the ASP of Matara on 27 July 2006, and to the Police Headquarters in Colombo on 28 July 2006. When he visited the police HQ a second time to inquire about the case, DIG Jayasundara advised Kumara and his aunt to complain to the Galle DIG, Jayantha Gamage.

On 24 August 2006, Kumara accompanied by his aunt went to the office of the South province DIG, Jayantha Gamage in Galle to lodge the complaint. However, there they were kept waiting for

more than six hours from 9:30am to 3:45pm, while some other people who came late were allowed to go in. Kumara then inquired from SI Nishanka why they were kept waiting for so long and informed him that he came there upon the instruction from the police HQ. However, SI Nishanka became abusive and shouted at Kumara to go back to Colombo and settle the matter on his own. He also refused to let Kumara and his aunt meet the DIG. When Kumara protested, SI Nishanka punched Kumara's face hard and continued to beat his face several times. Kumara felt faint and his aunt escorted him outside the office.

Later Kumara was warded at the Karapitua Hospital due to severe pain caused by the assault. In hospital, the JMO examined him and later Chief Inspector (CI) Pushpakumara from the Galle Police station visited the victim in the hospital and recorded his statement regarding the police assault. The CI then asked the victim's aunt to bring him to the Police station as soon as he was discharged from the hospital. Upon instruction, on 31 August 2006, Kumara along with his aunt went to the Galle Police station where CI Pushpakumara referred them to ASP Kumaratunga of Range III.

While inquiring into the incident, the ASP Kumaratunga allegedly told Kumara, "I will find the stolen goods for you; I will also give a warning to the policeman who assaulted you; but are you willing not to pursue the matter any further?" When Kumara refused to do so, the ASP got angry and ordered his aunt to leave the room. He then threatened Kumara not to get on the wrong side of the police and warned that it was not a good thing to antagonize police because the ASP was even empowered to cause the abduction and disappearance of a person like him. The ASP then called a typist and dictated a written statement himself to which Kumara was forced to sign. Kumara did so as he feared for further assault by the senior police officer.

#### **145. P. Gnanasiri: Brutal torture of a fisherman by Weligama police**

The illegal arrest and brutal torture of P. Gnanasiri and the vicious assault of members of his family, by officers of the Weligama police in Matara district II, Matara division, on 13 September 2006.

Gnanasiri, a fisherman in the southern coastal town of Weligama, was internally displaced by the tsunami of December 2004. Since then, he, his wife Mallika and their five children have been living in the ramshackle Weligama camp for internally displaced persons.

On 13 September 2006, Gnanasiri had a heated argument with one of his neighbours in the camp. That same evening, at around 7:30pm, two policemen attached to the Traffic Division of the Weligama Police station visited his tent. The officers verbally abused him, using foul and offensive language, and then arrested him without producing a valid warrant.

Gnanasiri claims that he requested the officers not to use such abusive and offensive language in the presence of his family. In response, one of the policemen is reported to have said; "We will teach you a lesson not in word, but by deed", and started to severely beat Gnanasiri. The policemen then handcuffed him to a tent pole, and continued in their inhumane assault of Gnanasiri for a period of

around 20 minutes. Then, Gnanasiri claims that he saw one of the policemen making a telephone call to the Weligama Police station. A few minutes later, several policemen arrived at the scene, in police jeeps, and joined in the brutal assault of Gnanasiri.

Gnanasiri's wife Mallika, seeing this merciless attack on her husband, began to weep profusely, begging the police officers to desist in their assault. In response, one of the officers viciously assaulted Gnanasiri, kicking her hard on her spinal cord. Seeing their parents being viciously beaten by so-called law-enforcement officers, their children too began to cry. The police officers then allegedly assaulted the children; one of their daughters, a twelve-year-old girl was also kicked in her spine and then thrown over a table to the ground, while their nine-year-old son was aggressively slapped several times on his face.

Mallika's sister, Chandralatha, seeing this inhumane assault, questioned the police officers as to what her sister and family could possibly have done to deserve such a brutal attack. An officer then began to beat her severely, and dragged her by her hair into one of the police jeeps. They then forced Gnanasiri into the jeep, before proceeding to the nearby Weligama Police station. Inside the jeep, Gnanasiri claims that he was pushed to the ground while several officers aggressively trampled and kicked him with their heavy boots all the way to the station.

At the station, Chandralatha was forced to sit on a bench and witness the further brutal attack and torture of her brother-in-law, this time with heavy wooden poles. Apparently, Gnanasiri repeatedly told the officers that he was still slowly recovering from prior injuries suffered in a motorcycle accident, but they continued in their wreaking of terror and torture nonetheless. The police officers later removed Gnanasiri's handcuffs and pushed him into a police holding-cell overnight, where he was deprived of food, water and medication. In addition, the police did not allow any of his family members to visit him even though they had come to the station with that very purpose.

The next day, 14 September 2006, at around 10am officers took both Gnanasiri and Chandralatha to the Matara Magistrate's Court in a police van. On their way to the Magistrate's court, they passed by Gnanasiri's wife and told her to also get into the vehicle but officers later demanded money from the wife for the van journey. At the court, Gnanasiri was fined Rs. 5000 (USD 50). But he insists that at no time during his arrest, torture, detention and court visit was he informed of the charges filed against him, nor was he asked at the court whether he wanted to plead guilty, or not guilty. Meanwhile, his sister-in-law, Chandralatha was charged with 'obstruction of police duty'.

On 15 September 2006, Gnanasiri's condition took a turn for the worse and he was rushed to the nearby Matara Hospital, where he was warded for several days. That same night, the hospital-based police recorded his statement. The JMO also recorded his statement, but did not perform any further medical examination of Gnanasiri's torture-inflicted injuries. His wife, Mallika was also warded in the same hospital for the grievous assault-injuries caused to her by the accused Weligama police officers.

Gnanasiri is adamant that the reason for his torture and unwarranted arrest is because a neighbour with whom he had had a dispute has close personal associations with officers of the Weligama Police.

#### **146. Lalith Rajapakse: Life-threatening injuries**

Medawachchiya Police and Anuradhapura prison officials in Anuradhapura district, Anuradhapura division, on 21 September 2006, tortured a 25-year-old man named Lalith Rajapakse from Kirigallewa.

Rajapakse had surrendered himself voluntarily to the police via his lawyer once he learned that a complaint was lodged against him at the local Police station on 21 September 2006. Once he was detained, the Medawachchiya police allegedly began to mercilessly beat him. The torture was so severe that Rajapakse lost consciousness, which forced the police to bring the victim to the Medawachchiya hospital where he was then administered saline.

However, later that day and against the doctor's orders, the police allegedly discharged the victim from the hospital and forced him to take six Panadol pills so that he could be presented before the court. Rajapakse's family claims that he was in so much pain that he vomited blood in the courtroom.

Once the magistrate witnessed the victim's condition, he ordered the Anuradhapura Prison guards to immediately take him to a medical facility. However, in a direct contravention of the court's orders, the guards allegedly returned the victim to the remand prison where they once again brutally assaulted him. As a consequence, Rajapakse's condition deteriorated and he was in grave danger of losing his life.

#### **147. Duwandage Pushpakumara: Attempt to harm a torture victim**

Torture victim Duwandage Pushpakumara faced an attempt to harm him by the alleged perpetrators on 26 September 2006, when his case was heard at Chilaw High Court. This is not the first incident of intimidation made by the alleged perpetrators. Since filing the complaint against the accused officer, Pushpakumara and his family have been constantly threatened and have had to flee home. The victim, who was a 14-year-old boy at the time of the incident (see Case No. 54, above), was allegedly tortured by the then OIC and other officers of the Saliyawewa Police Post in Putlam on 1 September 2003.

On 26 September 2006, D. Pushpakumara was accompanied by a few others to attend the Chilaw High Court from Kandy, for the purpose of which they traveled in a van. He had filed the complaint against SI Samarakoon who was responsible for his torture in September 2003 (Case No. 24/2004 Chilaw High Court). On their way, they found that the son of the accused SI, who is also a police

officer, with a gang of about ten to fifteen persons wearing civilian clothes followed their vehicle from Kandy in two vehicles. The two vehicles bore the registration numbers W.P.U.9562 and 262-9177 and there were also two motorcycles. These persons came to court and the friends who accompanied the D. Pushpakumara noticed their presence and heard some of their conversations.

On the way back to Kandy after the court hearing, D. Pushpakumara and his group decided to take a different route so as to escape the gang that was following them. However, the group of persons in the aforementioned vehicles kept following them. Fortunately, D. Pushpakumara's driver was able to change some routes and to go to Colombo instead of towards Kandy and thus avoided the gang that was following them. The victim's case against the concerned SI has been before the Chilaw High Court for a long time and there have been many attempts in the past to pressurise the victim and his family to withdraw his complaints. For example, police officers of the Saliyawewa Police Post, as well as prominent politicians, are threatening to burn the family's house if they pursue the complaint on this matter. Later on,

D. Pushpakumara and his parents had to flee due to threats from the police. Moreover, He also received several death threats from the accused SI and other police officers before the first hearing of the criminal case against the concerned SI at the Chilaw High Court on 9 February 2005.

The AHRC was also informed that there was also pressure on the human rights groups that are supporting the victim. We brought this to the notice of the police and other Sri Lanka authorities on earlier occasions but no serious action has yet been taken to stop constant threats to D. Pushpakumara. Considering previous threats and harassment, we strongly believe that this was an attempt to kidnap the victim or do him harm. The AHRC therefore urges the Sri Lankan authorities to provide immediate and effective protection to the victim and take urgent action against those responsible for the threats to the victim. Meanwhile, the accused SI is trying to prevent the case from being taken up in court. On many occasions, when the case was to be taken up, he disappeared from the premises of the court and later sent in medical reports.

#### **148. Rasurajah: Innocent man victimised by illegal arrest and detention due to unlawful police malpractice of misrepresenting suspect's identity in court**

The Asian Human Rights Commission (AHRC) has received information that an innocent man in Galle, Sri Lanka was illegal arrested and detained for 3 days because the police misrepresented his identity in court. More shockingly, the second magistrate, who was informed this fact, did not release him but kept him in remand until the next date of the case.

Now the victim is receiving severe threats from the police due to his complaint to Assistant Superintendent of Police (ASP) of Galle. In Sri Lanka, it is common practice that the police 'smuggle in' innocent people on behalf of the real suspects.

At around 11:30pm on 2 October 2006, two police constables (PCs) from the Akmeemana Police station visited the house of Mr. Rasurajah (32), a Tamil ethnic labourer in a tea estate residing in Talgampola, Galle, Sri Lanka. They were in civilian clothes and came in a vehicle belonging to the Rathgama police. They knocked at the door and when it was opened said they had a warrant. However, they did not specify for what reason the warrant was issued. The two policemen then searched the entire house.

Then, a Sub Inspector (SI) of the Rathgama police walked up to Mr. Rasurajah and grabbed him by his shirt collar. Mr. Rasurajah saw that several others with T-56 guns were staring at him menacingly. They then dragged him to the police vehicle and forced him into it. According to Mr. Rasurajah, the police then went to the estate superintendent's house where the SI and another alighted from the jeep inside for a little while. A little while later they returned and left the place. Mr. Rasurajah further said that the policemen drove to several other houses before finally taking him to the Akmeemana Police station. He was then locked inside a cell, where he was detained for the remainder of that day and the entire following day without being given any food or water. He was not also informed why he was arrested and detained.

On October 4, the Akmeemana police took Mr. Rasurajah to the Galle Magistrate's Court and requested that case No69431 be taken up, which was done outside court and inside the Magistrate's chambers.

The police produced him before the magistrate and had proclaimed, "We arrested the surety on a warrant". Mr. Rasurajah did not understand what the police said. But the Magistrate without uttering a word to him and without any further ado ordered that he be released on surety bail of Rs 100,000 (USD 933) and fixed the case for 6 December 2006.

However, as there was no one to pose bail for him, he was remanded. When Mr. Rasurajah was handed over to the remand authority, after inspecting the relevant documents presented to them, the remand officials refused to accept him into their custody insisting the papers related to another person. They informed this to an interpreter of the court but by that time the magistrate had already left his chambers. They then referred the case to another magistrate who told Mr. Rasurajah that the police had caused an injustice to him and had produced him in court misrepresenting his identity as one "M. Selliah". This magistrate then told him to 'look around' and see whether he could find anyone who could act as surety on his behalf. When he said that there was no such person, the magistrate still remanded him until the next date of the case.

On 6 October 2006 Mr. Rasurajah was released. Ironically on both occasions in magistrate court, he had retained a lawyer paying Rs. 1500 (USD 14) per appearance but this lawyer failed to bring these matters to the attention of court. As a result Mr. Rasurajah was unjustly detained over three days. After being released, Mr. Rasurajah complained about his case to the Assistant Superintendent of Police (ASP) of Galle. However, he is now receiving death threats from the Akmeemana police and no action has been taken against the responsible police officers.

According to the victim, the Akmeemana police told him that if he pursued his complaint they would arrest him, falsely charge him with being an LTTEer (a Tamil armed insurgent) and kill him.

Misrepresenting the identities of suspects when producing them in court is a common practice of the Sri Lankan police. This is allowed to take place because, despite Sri Lankan citizens' identities being checked almost at every nook and corner, the magistrates rarely inquire or verify the identities of suspects produced by the police before issuing remand orders. This enables the police to surreptitiously 'smuggle in' innocent people on behalf of the real suspects, who the police are for whatever reason reluctant to so produce in court, and have them remanded. It is hard to believe that they are unaware of this rather popular practice of the police.

This incident also shows the unprofessional and unethical practices of some magistrate's court lawyers who collect high fees from their hapless clients but utterly fail in their responsibilities towards their clients in court.

#### **149. Chamara Nuwansiri: Torture of a 15-year-old boy from Batuwatte**

The arbitrary and illegal detention and use of death threats and torture against a 15-year-old boy, Chamara Nuwansiri, from Batuwatte, Bangalawatte, by police officers in Balangoda reportedly took place following an attack on his family at their home by several people. The boy was detained at the Balangoda Police station when he, his mother and two brothers went to the Police station to lodge a complaint about the attack on their house. Police officers reportedly tortured him while he was in custody and forced him to confess to a theft that he had not committed. The boy has now been charged with the crime of theft based on this confession and has been released on bail. The boy was also threatened by the police not to talk about the assault after he was released.

On 3 October 2006 at around 10:15pm, several people from the Batuwatte area came to the house of Chamara Nuwansiri, a 15-year-old boy, in Batuwatte, Bangalawatte, and attacked his family, including his mother and two brothers. The father of the family, who is a soldier in the army, was not at home at that time. The people who attacked the family first attempted to set fire to Chamara's mother, however, they failed to do so. They then start assaulting Chamara.

After the attackers had left, the family rushed to the Balangoda Police station to lodge a complaint about the attack. As they were approaching the Police station, Chamara saw the attackers talking with police officers at the station. At the station, the police did not receive the family's complaint. The family was ordered to go back home, but Chamara was told to stay.

Another person known as Chanaka is also alleged to have been with the attackers when they were talking with police officers at the station. Chamara was brought to a room in the station along with Chanaka and both were severely assaulted by police officers. The police officers accused both of them of stealing a purse of a person called "Samantha" and demanded that they reveal where it was.

Chamara, who reportedly did not steal the purse, was subjected to harsh interrogation as a result of which he admitted to stealing the purse because he could no longer tolerate the pain. Later on, Chamara and Chanaka were taken from the room where they had been interrogated to a place near the holding cells, they were forced to kneel on the floor with their hands handcuffed together for another three hours, after which time they were offered food. After the meal they were again handcuffed together and taken to a cell.

When Chamara made a request to use the toilet outside of the cell (which is more sanitary than the one in the cell), the police officers answered him with abusive language and accused him of attempting to escape. At this point, the police officers reportedly hit Chamara using their fists and rubber hose pipes and kicked him repeatedly. Chamara was not handcuffed to Chanaka while he was being assaulted by police officers, but was again handcuffed to him after the assaults. Chamara's father, M. Bandusiri, went to the Police station later on that day, along with Chamara's mother, to attempt to have their son released; however, they failed.

Chamara and Chanaka were detained in the cell until around 6pm the next day (October 4, 2006). They were then moved to a warehouse, where they spent the night. On October 5, both of them were handcuffed together again, and locked in a holding cell. At around 3:00 pm on the same day, Samantha and several other people came to the Police station and threatened Chamara.

The police officers also said, "Tell the truth. If you tell the truth you can go home right now." Chamara however, did not bend to these threats and kept stating that he had been assaulted by the police and handcuffed with Chanaka in the cell.

On October 6, the police took Chamara and Chanaka's fingerprints and then produced them before the Balangoda Magistrate's Court. At the court, they were charged with committing theft. Chamara was released on bail later the same day and his parents were told to take him to the probation office.

On October 7, Chamara was suffering from health problems and was brought to the Balangoda government hospital by his parents. Chamara complained to the medical doctor about the torture he had been subjected to by the police officers. On that evening, a police officer came to the hospital to see Chamara and threatened him by saying, "Don't you say the police hit you; come to the Police station later and sort it out, or else we will dispose of you". On October 8, 2006, Chamara told the JMO and the hospital police that he had been tortured.

#### **150. Padmini Sriyalatha: Alleged rape attempt of a woman by a policeman**

The Asian Human Rights Commission (AHRC) has received information regarding the alleged rape attempt of a woman by a police constable (PC) from the Ratanapura Police station on 7 October 2006. The PC concerned was allegedly drunk at the time of the incident. Despite making several complaints with the relevant authorities including the Godakawela police, the PC concerned has not been arrested and no disciplinary and legal action has yet been taken against him.



At about 10:40pm on 7 October 2006, Ms. Padmini Sriyalatha came out to go to a toilet situated several feet away from the house. When she was about to enter the toilet, a man in black attire pounced on her. She was very frightened but fought her assailant. While struggling, they moved towards the road near her house. When she fell on the road, the man fell on top of her. She continued to struggle furiously but the man was strong and began embracing her, groping her body and attempting to sexually assault her. As a result she had scratches and scrapes all over her body. During the assault she noticed that the man was thoroughly intoxicated.

Upon hearing the victim's desperate screams, her husband Mr. D. Wickremasinghe and his nephew Mr. Achala Udayanga rushed to the scene. The husband pulled at the man and tried to rescue his wife. However the man lashed out at the husband and threw him to the ground. He also beat the nephew with his fists.

The victim and her husband knew that the man was actually a policeman when he threatened them saying, "I am a policeman from the Ratnapura police station. I was told to conduct (security) checks at any time and place I want. When I return to the police station, I will take care of this matter". He then left the place with a motorbike parked on the roadside.

Ms. Sriyalatha hurried to the nearby police checkpoint and inquired about her assailant. One on-duty policeman informed her that the man, who had just left the checkpoint, was a policeman but was not on duty that night. After that, Ms. Sriyalatha along with her husband and the nephew went to the Godakawela Police station and lodged a complaint against their assailant, Police Constable Samaranayake of the Ratnapura Police station.

After lodging her complaint, the victim went to the Godakawela Hospital, where she was admitted and treated for her injuries. At the hospital, she again complained about the incident to a doctor. For further treatment, the next day she was transferred to the Ratnapura Hospital where the Police stationed in the hospital premises recorded her statement. She was discharged from the hospital on 10 October 2006.

However, Ms. Sriyalatha laments that despite her numerous complaints, no disciplinary and legal action has yet been taken against PC Samaranayake by the police. As a result, PC Samaranayake is still at large. She also reported that she was scheduled to undergo a surgical operation for breast cancer on October 10 but she could not do so due to the assault.

The AHRC strongly condemns the apparent inaction of Godakawela police in investigating the case and arresting the alleged perpetrator. An impartial and speedy investigation must be conducted by independent investigating officers so that the PC concerned is brought to justice immediately.

#### **151. Baskar Sothi Balanandam Ponwattar Regis: One man killed after abduction and his brother complains of his possible forced disappearance**

The Asian Human Rights Commission (AHRC) has received information regarding the killing of a young Tamil ethnic man after being abducted by four unidentified men in one of the notorious 'white vans' in Colombo, Sri Lanka on 19 October 2006.

It is alleged that army personnel also visited his elder brother's residence and looked for him two days after the victim's body was found. Fearing for his life, the elder brother has gone into hiding. He believes that his younger brother was killed due to his previous record of arrest and detention in 2000 by the Sri Lankan army who accused him of a Tamil terrorist.

According to Ponawattar Albert, his younger brother Baskar Sothi Balanandam Ponwattar Regis, a young Tamil ethnic Sri Lankan, has been abducted by four unidentified men in a white van without a number plate near the gate of the house where he was staying at around 9:55pm on 19 October 2006. The house address is No. 360/1 Joe Perera Mawatha, Colombo 12, Sri Lanka. At around 10am on the next day (October 20), the victim's sister received a phone call from a man, who identified himself as the victim's colleague. He said that he was informed by the Modera police that Ragama police found the body of Ponwattar Regis and had it in their custody.

In order to participate in his brother's funeral, Ponawattar Albert left for his ancestral home at Mannar town in Vavuniya district on at about 10:00pm on October 22. He later learnt from his landlord Jayaratnam that army personnel had visited his rented residence at No. 123/14, Station Road, Vavuniya and searched for him on the same day. Ponawattar Albert alleges that the abduction and subsequent killing of his younger brother might be due to his previous record of having been accused of being a Tamil terrorist (armed insurgent). Ponawattar Albert was arrested by the Terrorist Investigation Department on suspicion of being a terrorist at around 23 June 2000 when he was studying at the University of Moratuwa.

He had been detained for nearly seven months until he was discharged from the accusation against him by court. While in detention, he was reportedly subjected to torture and ill-treatment during the interrogations.

Ponawattar Albert said that his younger brother was not involved in any terrorist activities. He believes that the victim's abduction and murder was caused due to his previous record of arrest and detention in 2006. Due to fear for his life, Ponawattar Albert has gone into hiding and stays in another place. Recently several abduction and forced disappearances have been taking place against Tamil ethnic minorities in the Colombo area. Human rights groups are accusing the government that they are using these brutal methods to frighten Tamil residents in northern Jaffna area in order to prevent their migration to Colombo.

#### **152. P.P. Dinesh Gihan: Biased police inquiry into a case of navy sailor who was threaten at gunpoint by Panadura police**

At about 5:30pm on 31 October 2006, P.P. Dinesh Gihan, 26-year-old Sri Lankan Navy Sailor who was on temporary leave from the Navy, was riding his bicycle when he passed a police security checkpoint at Modaravila, Panadura, Sri Lanka. Suddenly the policemen at the checkpoint had

stopped him but as he had already passed the checkpoint, he stopped a little further away. As he was stepping down from his bicycle, one sub inspector walked up to him and viciously kicked his bike twice.

When Mr. Gihan inquired the reason for this behaviour the SI rudely told him it was because he delayed getting off his bike. The SI then asked Mr. Gihan to show his National ID card. As he did not have it at that time he instead offered his official ID issued by the navy. But the SI was not satisfied and verbally abused him and even attempted to assault him. When Mr. Gihan protested such behavior, the SI simply told him that he (the SI) was in uniform while Mr. Gihan was in civilian dress and therefore he was empowered to do anything he wanted, including sending Mr. Gihan to prison for one year. According to Mr. Gihan, the SI even pulled out a pistol from his waist and threatened him with the gun.

The other eight policemen at the checkpoint also pointed their guns at him. On 1 November 2006, Mr. Gihan lodged a written complaint to various authorities including the Inspector General of Police and the Senior Superintendent of Police (SSP) of Panadura division. In response he was instructed to attend a police inquiry into the incident on 13 November 2006 at 10:00 am at the Panadura-SSP's office. Mr. Gihan arrived in the office in time but was kept waiting until 12:30 pm. He was then informed that the SSP had gone for lunch and asked to return at about 1:30 pm. Finally the inquiry began at 1:30 pm but as soon as it began, the SSP asked why Mr. Gihan was not present at 10:00 am as requested.

Although Mr. Gihan told the SSP that he had in fact been present at 10:00 am, the SSP dismissed the fact. According to Mr. Gihan, the SSP's inquiry was not performed in a proper manner and biased towards the accused (the policemen).

Mr. Gihan said that the SSP told him that policemen pointing guns at people was a 'normal occurrence (ova samannya deva)' and even said, "After all, you know all about security checks, don't you?" Mr. Gihan appeal that the policemen had pointed their weapons at him not for security reasons but rather to intimidate him. But instead of taking his statement seriously, the SSP then said that crime was increasing in Panadura, implying him that this sort of behaviour is required for crime control.

Mr. Gihan protested the SSP's comment and told him that crime busting was duty of the police, but that policemen had no business threatening and subjecting ordinary civilians to unwarranted harassment. Finally the SSP muttered something about wanting to record the policemen's statements and ended the inquiry. Mr. Gihan says that the entire conversation with the SSP left him with little faith that he will ever be afforded an impartial and fair hearing from the SSP. The AHRC wonders about the plight of ordinary citizens who have little choice these days but to be subjected to innumerable 'security checks' at the hands of such errant law enforcement officials, when navy personnel are treated so shabbily.

The AHRC is also deeply concerned by improper and biased manner of the police inquiry into this case. When a citizen lodges a complaint to the police, the inquiry is the first process in finding the

actual facts of the case and collecting evidence that may lead to departmental sanction or prosecution against those responsible.

Improper police inquiries are also one of primary reasons for the failure of conviction of the accused in court cases. Therefore if it is not performed in a proper manner, it becomes a great obstacle in rendering justice and redress to the victims.

Unfortunately, such improper and biased police inquiries are a common feature in Sri Lanka.

### **152. Muralitharan Rajah: Torture victim continuously denied examination and medical treatment in detention**

(According to the testimony of the victim's parents, S. Devarajah and his wife, Rajletchami)

Sometime in July 2006 there was a clash between policemen and some youth of Ambakotte. At that time, the policemen came to the village in plainclothes and beat some youths. The youth, who did not know that they were policemen, retaliated and beat them in return. This incident took place in front of a small boutique owned by the victim's family.

According to S. Devarajah, his son, Muralitharan Rajah, was inside their house and had nothing to do with the incident. Murali is the only son of the family. He was born in Kandy and studied at Kandy Asoka College and St. Sylvester's College. After his Advanced Level examination he had been helping his parents in their business. Despite not having been involved in the clash, the policemen arrested Murali on 21 October 2006. He was then produced before the Teldeniya Magistrate Court and was imprisoned on false charges of assaulting the policemen; and only in December 2006 was he released but his trial proceeds.

After having been released from prison, the police, every Sunday, needlessly required him to appear and sign a document at the Teldeniya Police station. On 28 May 2008 about 11am, while Murali was returning home from the court in Teldeniya, after attending a hearing of his case, policemen from the Criminal Investigation Division (CID) arrested him again outside the courthouse. Murali was then taken to the Teldeniya Police station where he was beaten severely in open view of his mother, Rajletchami. He had been taken, in handcuffs, on a three wheeler to the police station. After alighting from the vehicle, five to ten police constables started beating him with their hands and feet. He also suffered burns to his legs and had wounds all over his body. The policemen then tortured him the whole night inside the police station. On 25 September 2008, after having been detained at the Teldeniya Police station and subsequently at the Manikhinna Police station of the Kandy Police Division for almost four months, Murali was produced before the Magistrate Court in Kandy.

He is presently detained in Bogambara prison. The case was called up on 9 November 2008 in the Kandy Magistrate Court but was postponed until 1 December 2008. While in detention Murali was never seen or examined by a Judicial Medical Officer (JMO) nor was he given treatment for the injuries he had suffered. The police officers are angry with the youth of Ambakotte for assaulting their men in July 2006.

Although Murali was not involved in the assault, his parents believe the policemen fabricated charges against their son, accusing him of having been involved in terrorist activities at the time. Some other youth were also taken to Colombo for involvement in the same incident and they are allegedly being held by the CID.

### **153. Pasquelge Don Dudley Mervyn: Brutal torture of man who was wrongly arrested**

The victim was arrested in relation to the charge of robbery of the house in Prasanna Sandaruwan, which is under the area of control of the Seeduwa Police station. The victim had allegedly claimed that he was not involved in the robbery. However, the police allegedly tortured him in order to force him to confess his involvement in this crime. At around 11:30 am on 27 October 2006, several police officers took Pasquelge Don Dudley Mervyn, a 56-year-old casual labourer to the Seeduwa Police station in Seeduwa, Negombo District II, Negombo Division, Sri Lanka and arrested him in charge related to a robbery of a house of Prasanna Sandaruwan, which Pasquelge claims that he did not commit. The mother of the victim, Pasquelge Dona Violet Lilian, learned of the detention of her son in the evening of the day he was arrested.

When Lilian visited her son to the Seeduwa Police station with food, Dudley told her that he had been severely tortured and had been forced to admit to the robbery that he did not commit. Lilian saw the injuries on his body and realised that her son was in great pain. On November 2 when Lilian again visited the Police station to see her son, she witnessed that he was not in the holding cell but was seated on a chair in the police mess and handcuffed to a steel bed by his right hand.

Dudley had been detained at the Police station for seven days until November 3 without being produced before a magistrate.

### **154. Nishantha Perera: Arbitrary detention and ill-treatment of man suffering from mental illness**

The arbitrary and illegal detention of a man suffering from mental illness at the Wadduwa Police station is thought to have followed a conversation in which he upset the OIC. The victim, Nishantha Perera, was detained in one of the Police station's holding cells for over nine hours without being issued an official warrant of detention. The detention frightened the victim, reportedly causing him to become hysterical. As a result, the OIC allegedly stripped the victim naked and insulted him, before forcing him to run back home without any clothes on and with his belongings left back in the Police station.

M. Jayawathi Perera, the victim's father, was outraged by the illegal detention and inhuman and degrading treatment to which his son was subjected. The police reportedly knew of his psychological condition. A complaint was not dealt with seriously; there was no investigation into the case.

### **155. Weligoda Ananda: Illegal arrest, torture and secret detention**

A 49 year-old man, Weligoda Ananda, was severely tortured in the Welikada Magazine prison while he was interrogated by police officers. Ananda was taken by police and arrested without being informed of the charges laid against him. He had been held in so-called "secret detention" since police took him on 8 November 2006, and his family had not known his whereabouts.

Ananda was arrested by 10 police officers in plain clothes from the CID of Peliyagoda and Divulapitiya detachments at around 11:30am on November 8. The family members were forced to leave the room by the police officers and went upstairs after they saw Ananda was handcuffed, however, they heard the police officers questioning the victim and asking about some information on a telephone number. They also heard the sounds of the victim being tortured.

Despite the family's pleadings to the police on the reason why the victim was arrested and where he will be taken, the police did not give any answer to the family when they left the victim's house. The family had lodged complaints with several local police offices and the CID office asking them to search for the victim. However, the police never treated their complaint seriously and they could never find his whereabouts. A few days after the arrest, Indra Kanthi, the wife of the victim, received a telephone call from her husband saying that he was safe and that the police were treating him well and that he would be home soon. On November 15, she received another message from her husband via an unknown messenger. While on November 16, the Divulapitiya Police finally agreed to enter a complaint and went to Indra Kanthi's residence to take a statement the following day.

The victim's whereabouts were not known by the family until the magistrate ordered the victim's wife to go to the Welikada Magazine Prison which is where the police indicated as the place where the victim had been detained. The victim's wife visited the prison, and saw that her husband had wounds all around his body and had difficulty walking. The victim told his wife that he was tortured severely by police when he was arrested.

### **156. Latdu Karatunga and Ladu Daramatunga: Alleged extrajudicial killings of two men by the police on the pretext of "crossfire"**

On 24 November 2006, two brothers named Mr. Latdu Karatunga (44) and Mr. Ladu Daramatunga (38), who are wanted by the police, surrendered themselves to the Magistrate's Court of Galle by filing a motion for that purpose through an attorney at law. Fearing that they would be tortured if they surrendered to the police, the two men surrendered to the Magistrate's Court instead to seek protection. Before the motion was taken up for supporting before the Magistrate, the two men were seated inside the court. Meanwhile the magistrate who was already hearing the case took a recess.

At this stage a group of policemen from the Special Investigating Unit (SIU) at Galle entered the court in a rush and assaulted the two men inside the court itself before taking them away. Later the officers from the SIU are said to have handed over the two detainees to the Ambalangoda police, who allegedly shot the two men to death on 26 November 2006. According to the police version given at the inquest by the magistrate as well as report in the press, the police took these two suspects to a place where firearms were said to be hidden.

But when they went to the spot the two men tried to take up arms and attacked the police. Therefore the police in self-defence shot at the two and killed them. The two bodies were taken to Balapitiya base hospital and the post mortem was conducted on the bodies by a District Medical Officer. However, this hospital does not have proper facilities for conducting post mortems. The closest hospital in the Galle district with facilities for post mortems and with the availability of a Judicial Medical Officer (JMO) is Karapitiya Hospital.

However, strangely, the police did not take the bodies to this hospital. At the inquest the same Magistrate from whose court the two victims were taken into custody presided over the inquiry. The Magistrate then concluded that it was a justifiable homicide, despite the fact that the criminal procedure code (CPC) does not give power to magistrates to decide on the justifiability or otherwise of a homicide at the stage of an inquest. Instead the magistrate should record all the statements, call for inquiries under the CPC by the police and leave the decision of prosecuting to the Attorney General's Department.

If there is sufficient evidence of death by shooting, the Attorney General would then file an indictment in the high court and it will be for the high court judge on examination of all the evidence before him to decide on the defence that may be taken by the police by way of self defence. If the case is heard before a jury it is the jury that will decide on the matter. Where the case is taken up before a high court judge without a jury, the judge will then decide the matter. However, this whole process will be stifled when the magistrate makes a pronouncement of justifiable homicide at the initial stage of an inquiry.

Thus, the following violations of rights of the two men have taken place in this alleged incident:

- a.** abduction of persons from the premises of a court while they were before the court to surrender is a gross abuse of the rights of a person for security as guaranteed by Article 9 of the International Covenant for Civil and Political Rights (ICCPR), to which Sri Lanka is a state party;
- b.** torture of a person allegedly at the magistrate's court and outside is a violation of article 7 of the ICCPR which forbids torture, cruel and other inhuman punishment;
- c.** The shooting of persons while in police custody is an extra judicial killing which is both murder and a violation of article 6 of the ICCPR. Even if it is actually true that the two men were killed in 'crossfire' as claimed by the police, the police should still be accountable for their deaths as they are responsible to ensure the security of persons in their custody.

d. deprivation of a proper post mortem is a violation of the right to equality before law and a right to an adequate remedy under Article 2(3) of the ICCPR;

e. declaration of justifiable homicide by the magistrate at the end of an inquest is a deprivation of a right to a fair trial under article 14(1) of the ICCPR. The state is under an obligation to reinvestigate this matter, to examine the bodies and to conduct a proper post mortem inquiry and also to record statements through a proper and competent criminal investigation unit and to bring the cases before the court so that they may decide the matter on the basis of merit.

### **157. R.H. Dhanapala: Man illegally arrested and assaulted by excise officers**

About 4am on 29 November 2006, five mysterious men including one in uniform began pounding on the door of R.H. Dhanapala's home while he and his family were asleep. At the sound of shouting, one of the victim's children opened the door. The five men entered the house and identified themselves as officers from the 'Excise Department'. One man who was wearing civilian cloths then pulled Dhanapala by his sarong and shouted, "Come on, show us where the kasippu (illicit liquor) barrels are!"

Dhanapala maintained that he was not in possession of any kasippu. The officers then verbally abused him in front of his family and began assaulting him on his head. When Dhanapala's children began screaming in fear, the officers dragged him outside the house only after they had forcibly obtained the signatures of the victim and his wife without informing them of what they were signing. The excise officers then took Dhanapala to nearby shrubbery and pressed hard upon him, demanding to know where the barrels of kasippu were. When Dhanapala continued to insist that he had no idea, the officers grabbed him by his beard and hair. They then began to severely assault him with their fists and kicked him with their boots.

Meanwhile, officers took a second person into custody and brought that man to the same shrubbery and brutally assaulted him and Dhanapala with a pole. At that time, Dhanapala saw that two barrels of kasippu were presented there but did not know from where the police got these barrels. The officers then took that man and Dhanapala back to the other man's house and told Dhanapala that he would be charged in court. He was then released and instructed to be present at the Ratnapura courts on 14 December 2006.

On 30 November 2006, Dhanapala who was accompanied with his employer Shantha Kumara, visited the Ratnapura Excise Department to lodge a complaint regarding the incident. They were informed that the relevant officer was not in and were told to return on 5 December 2006 at 9am. When they returned on December 5, one of the officers who had arrested and assaulted Dhanapala came forward and verbally abused both Shantha Kumara and Dhanapala. Furthermore, Dhanapala's complaint was not accepted.



On 14 December 2006, Dhanapala went to the Ratnapura courts where he discovered that he had been falsely charged with the possession of illicit liquor. He pleaded not guilty to the charges against him and was released on bail by the court.

According to Dhanapala, ever since the incident, his children who had seen him assaulted and dragged out of their house have been suffering from mental trauma and are now living in fear. Dhanapala has complained in writing to the IGP, Commissioner General of Excise, the HRC and other relevant authorities regarding the illegal arrest, assault and fabrication of charges against him. He is requesting that these authorities take immediate legal and disciplinary measures against the errant excise officers.

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### **158. Marisan Annachcheli: Mother of three threatened with her life if not consenting to sex with police official**

Marisan Annachcheli, a mother of three children, a resident of Karainagar in Jaffna complained that a group of officials from Vavuniya Police station threatened to kill her if she would not consent to sex with them.

She remembers the number of one police official who was among them was No. 28445. Marisan Annachcheli, accompanied by a parliamentarian, lodged a complaint to Jaffna DIG Prathap Siriwardhana. However, no investigation had taken place.

She had faced the situation when she went to Vavuniya to look for her husband Marikkawasan, who was abducted on 8 January 2007 by a group that appeared to consist of police while he was working in a liquor shop in Mattakkuliya, Colombo.

She said that the police officials spread rumours naming her as a bad woman and her lodge keepers had been urged to expel her.

### **159. Rev. Nallathamby Gnanaseelan: Brutal killing of a pastor in Jaffna**

Rev. Nallathamby Gnanaseelan, 38-year-old pastor of Tamil Mission Church in Jaffna, was brutally gunned down at the roadblock at Library Junction, Wembedy School Road, Jaffna, around 10:30am on 13 January 2007. On that fateful Saturday morning, he had gone on his motorbike to Jaffna Hospital with his wife Serena and his eldest daughter who was sick. He had left the mother and daughter at the hospital at about 10am asking them to return home by bus after the medical treatment was over.

The killing took place at Chapel Street when Rev. Gnanaseelan was heading to his church to conduct a daylong prayer fast at the church. According to eyewitnesses, Rev. Gnanaseelan was shot in the stomach and then as he lay on the street, shot in the head and killed by soldiers on duty stationed at the junction. The soldiers were sauntering along Chapel Street at that time. His Bible, bag, ID card and motorcycle were taken away and he was left lying on the road. Eyewitnesses say that the pastor had not done anything provocative.

According to the Sunday Leader newspaper, Rev. Gnanaseelan's body lay on the road for more than an hour till the police officially discovered him at around 11:30am. The acting Jaffna District Judge M. Thirunavukkarasu went to the scene for a preliminary inquiry and instructed police to trace the victim's identity. The "unidentified" body was taken to the Jaffna Hospital morgue. On the following day, the family was looking for the missing pastor. They went to the morgue and found the pastor's body there.

The soldiers on duty at Wembedy Road Junction reported that that Rev. Gnanaseelan was carrying explosives. On January 13, the Media Centre for National Security (MCNS) website ([www.nationalsecurity.lk](http://www.nationalsecurity.lk)) posted a brief news item that one person who was to be searched at the road block at Library Junction, Wembedy School Road, Jaffna, attempted to hurl a hand grenade and the troops shot him dead in self-defence. It also claimed that a grenade was found in the pastor's possession. The Defence Ministry posted a similar story on its website ([www.defence.lk](http://www.defence.lk)) on January 13. However, it was reported that the military changed its claims after it discovered that the dead man was a well-known Christian pastor. Later it claimed that the pastor was shot because he did not stop when the soldiers instructed him to do so. Military officials reportedly pressured the pastor's wife to sign some documents but she refused to do so.

In its statement, the National Christian Evangelical Alliance wrote, "Rev. Gnanaseelan was a member of the National Christian Evangelical Alliance Clergy Fellowship in Jaffna and was not involved in any political activity. He was a law-abiding citizen and the pastor to his congregation." The statement also said that, "His death is not an isolated incident, but one of many, which takes place in the North East of Sri Lanka, daily."

Rev. Gnanaseelan is survived by his wife and four children; the oldest daughter is seven-years-old and youngest is one-year-old.

#### **160. Wijeshinghe: Alleged torture and fabrication of charges by Wategama Police**

According to the information we have received, at around 10am on 15 January 2007, Wijeshinghe was summoned to the Wattedegama Police station with his lawyer Saman Ratnayake. He was accused of having failed to return some jewellery and money as promised, but he denied such accusations. He was asked by the police to give a statement about this accusation. Meanwhile, a sub-inspector of police, Upali Chandrasiri was very rude to him. After his lawyer left, Wijeshinghe stayed to clarify that he was not guilty of such accusations, but Upali and another police sergeant, Thilakarathna, physically abused him. He was kicked and beaten, and then locked up and tortured. Wijeshinghe told the police that he had heart disease, but the officers did not pay attention and threatened to kill him. He was handcuffed with his hands behind his back.

On the same day the police filed a case at the Teldeniya Magistrate's Court against him, claiming that he had obstructed the duty of SI Upali Chandrasiri, based on a fabricated document. On 22 February 2007, the case was called at the court but Wijeshinghe was hospitalised and unable to attend the court. Therefore, the court remanded him into police custody from 22 February to 1 March 2007.

Although Wijeshinghe was hospitalised in the Wattedegama Hosiptal, on February 22, the police transferred him to the National Hospital Kandy under custody, where he was admitted into the intensive care unit. On February 23, he was transferred to the cardiology ward. He remained under police custody until February 27.

Wijeshinghe was brought before the judge on 1 March 2007, where the police claimed that he was a mental patient. His lawyers denied this accusation, showing medical certificates from the hospital, and he was released on bail later the same day.

On 9 March 2007 and 23 April 2007, the HRC office in Kandy summoned SI Upali Chandrasiri for an inquiry into the complaint made by Wijesinghe, but he did not come.

#### **161. Kapu Kankanamalage Mahesh Maduranga: Beaten with tree a branch**

Police officer Abeygunawardena came to the house of Kapu Kankanamalage Mahesh Maduranga (aged 16) to search him at around 11am and 12pm on

17 January 2007. The police officer and another came to the victim's house by car and found only Mahesh's mother at home. They told the mother to tell her son to come to the Eheliyagoda Police station at 4pm the next day, but did not explain the reason for their request.

Later on the same day at around 10pm, the two police officers came to the house again searching for Mahesh Maduranga with one of his neighbours, Dushmantha. The father of Mahesh Maduranga opened the door for them. As the door was opened, they came into the house and found Mahesh Maduranga, who was sleeping at that time. They started to shout at him with foul language, and told him to get up otherwise they would kick him. Then they handcuffed him and took him out of the house.

In front of the house, they broke a thick branch from a tree and used it for beating Mahesh Maduranga, accusing him of stealing a cassette from Dushmantha's car the other day and forced him to confess to the theft. The two officers did not stop beating Mahesh Maduranga despite of his and his father's pleas. On the contrary, they hit Mahesh Maduranga's father with a gun and pushed him aside from the site where his son was being assaulted. Abeygunawardena beat the victim with the stick until it was broken and he tried to impale Mahesh's fingers with a part of the stick. Due to this brutal violence, Mahesh has lost the use of the little finger on his left hand.

After they beat Mahesh, they brought him into Dushmantha's three-wheeler and brought him to premises that belong to a person called Mallawarachchi. The two officers forced the victim to admit to the robbery of a cassette tape in front of this person and started to beat him with the stick again. Despite such outrageous violence, the victim kept denying the involvement in the robbery of the cassette tape and he was brought to the Police station at around 11:30 pm that night.

At the police station, his hands were cuffed and he was kept under police custody until the following morning. While he was in custody, police officers ignored his request to use the toilet until a few hours later.

The next morning, when the father of the victim visited the police station he saw his neighbour Dushmantha there and asked him not let his son be beaten by police officers again. Then Dushmantha talked to one of the police officers and later on the victim was released and told to come back to the Police station on a designated date. The father and the victim went back to the Police station on the said date and were told by the police officer Abeygunawardena that Mahesh had to pay the same amount of money for the stolen cassette since he was under suspicion of having stolen it. The victim and his father refused to pay for it and again denied the victim's involvement in the robbery. The officer then said that the case would be brought to the court later on.

The victim sustained severe back pains and headache due to the severe torture he received at the hands of the police officer. He was brought to the Eheliyagoda Hospital and admitted on 8 February 2007. He received a medical examination from the District Medical Officer due to the report that the victim's father made at the hospital that his son's injuries were due to torture. The hospital police recorded the statement on the use of torture.

The victim was discharged from the hospital on February 13, however, he returned to the hospital again on February 14 because his condition became worse. On February 15, the victim's neighbour Dushmantha and another person called Sumith allegedly attempted to abduct the victim from the hospital but failed because of the intervention of the hospital staff. The victim and his father wanted to report this attempted abduction but did not because they were afraid of going to the Police station.

**162. W.S. Anthony Raja, W.S. Jude Sampath, W.S. Sumith Thamel, Anthony Tyrone Fernando, Sivanaiah Ranjith and W.S. Luckshman Newton Fenrando: Sri Lankan Navy allegedly attacks, arrests and assaults fishermen from Negombo**

On 27 January 2007 at 4am, six fishermen set out from Negombo and stationed themselves 20 nautical miles off the coast and outside the high-security zone that is patrolled by government forces. They then dropped their nets. At around 6:30am, the fishermen noticed a navy ship approaching, at which point the men raised a flag to inform them that they were fishermen and had nets in the water. The fishermen saw the navy open fire on another boat in the area, which then caught fire.

The navy then approached the fishermen and demanded that they all jump into the sea and remove their clothing. The government forces then allegedly tied the victims' hands behind their backs and brought them back to land. The men were allegedly blindfolded and assaulted during an interrogation that lasted until 4:30 pm, at which point they were placed in a holding cell.

The following day on 28 January 2007, the victims were released into their families care but did not have their boats or fishing equipment returned. Meanwhile, another six fishermen were arrested, with two of their boats seized by the navy. One of the boats was allegedly destroyed while the navy conducted a search. The fishermen's families were informed that the Antiterrorist Investigation Unit was questioning the men; however, they were denied access to the victims.

Meanwhile, the Sri Lankan Navy publicly stated that the fishermen often receive payments from insurgents in exchange for information. The statement was published in the Lanka Deepa newspaper.

**163. A. Dushmantha Silva: Alleged brutal assault of a man by the Panadura police**

A. Dushmantha Silva is a 29-year-old manual worker living in Temple Road, Dibedda, Panadura. On 3 February 2007 about 3pm, he was on his way to a motor garage to buy a silencer for his motorcycle when four policemen from the Panadura police led by SI Upul Kumara illegally arrested him and assaulted him all over his body with a length of rubber from a vehicle door, while demanding that he tell them where he had hidden illicit liquor. Silva insisted he was no longer engaged in that illegal business but the policemen did not listen to him and continued to brutally assault him. After that he was handcuffed and taken to a shrubbery nearby where the police had allegedly recovered several barrels of illicit liquor, a gas stove and cylinder. They put these implements into a hand-tractor and proceeded to the Police station.

At the Police station, Silva was fingerprinted and locked up in a holding cell. At about 11:30am on February 4, the police took Silva to the Panadura Hospital, where presumably they hoped to fraudulently obtain the 'all clear' for a remand order from the court. However, Silva complained to the doctor regarding the police assault and the doctor requested him to show his injuries. Silva

removed his shirt and showed the doctor the marks on his back. Later the doctor requested him to leave the room and had a long animated conversation with the policemen who escorted Silva to hospital. Silva believes the doctor must have refused to sign the medico-legal form enabling his remand, because the police simply brought him back to the Police station and threatened him with death if he approached any human rights organisation regarding his case. The police then recorded his statement and released him on bail. The police also ordered him to appear in court on 9 February 2007.

As soon as he was released, Silva rushed to the Kalubowila Hospital, where he complained about the police assault. On February 5, Silva complained about his case to the ASP, who recorded his statement and afforded him a medicolegal form, which he took to the hospital. Later a JMO examined him, to whom he again complained about the police assault.

Meanwhile, Silva lodged written complaints to the HRC, NPC, IGP and other relevant government authorities demanding action against his torture perpetrators and adequate compensation for the serious injuries sustained from torture.

#### **164. A.A. Priyantha Kumara: Brutal assault of an innocent man by the Dodangoda police**

On 12 February 2007, A.A. Priyantha Kumara (27) was returning home from work and had just visited a shop at the Madabada Junction in Dodangoda, Kalutara District III, Kalutara Division to buy some biscuits. He then saw three policemen from the Dodangoda Police station standing in front of the shop. Two were security assistants (home guards) one of whom he recognized as 'Rukmal'. The third was in police uniform.

The policeman confronted him and asked, "What are you doing?" To which Kumara replied he was on his way home. The policeman told him to stand up straight and allegedly slapped him soundly on his face and also assaulted him on his head. Kumara queried as to what he had done wrong and why he was being assaulted. But the officials did not answer but continued to assault him on his head. They shouted at him in filthy language saying, "You do not know us... Do not rouse the devil in us."

Kumara was still quite unaware of why he was assaulted and afterwards, slowly walked towards Matugama. Luckily three persons acquainted with him named Manju, Karunathilake and Upul saw him and after being told about the assault rushed him to the Nagoda Hospital, where he was warded for nine days.

At hospital a JMO examined him and together with the police attached to the hospital police post recorded his statement. A policeman named Gunasekera from the Dodangoda Police station also recorded his complaint. Kumara says this policeman was not wearing a registration number.

On February 17, Kumara's mother met the OIC of the Dodangoda Police station and lodged a compliant, which had been reluctantly recorded. But she says she was forced by the police to sign

the statement without being afforded an opportunity to read it or having it read over to her. On February 19, Kumara's mother attempted to meet with the ASP of Kalutara regarding the incident, but she was unsuccessful. Subsequently, Kumara lodged his written complaint to the HRC, NPC, the Attorney General, IGP, DIG-Legal Division and SSP Kalutara regarding the incident.

#### **165. A.A.D.I.A. Attanayake: Brutally kicked and beaten by the police**

On the night of 26 February 2007, A.A.D.I.A. Attanayake was quarrelling with his wife over some financial matters. His sister-in-law, Nilanthi Chaturani Silva, reported their argument to the police by calling the Emergency Hotline. Officers from Matale Police station, including Sgt Ekanayake, Sgt Gunawardene (No. 54332), PC Jayatilaka (No. 57156) and a number of village security guards then forcibly entered Attanayake's house, bound his hands and dragged him to a (police) jeep. While Attanayake was being taken to the jeep, he was forced to lie on the floor and was severely kicked on his chest, by the policemen with their boots.

Another officer with a wooden pole beat the victim, at which point he lost control of his bowels. He was then taken to a doctor at the Matale Hospital, who examined him for marks of torture. Following his complaint, the doctor made a sketch of the injuries and admitted the victim to the hospital for treatment of the wounds on his body, following which Attanayake was then taken in the same jeep to the Matale Police station, where he was again beaten. The victim was not given any food. He was then taken to the minor complaints section and a statement was taken. According to him, he mentioned the police torture but it was recorded in the statement that he was remanded for trespassing and stealing Rs. 15,000 on 26 February 2007 and for threatening behaviour on 25 February 2007.

On being admitted to the section for prisoners in the Matale Prison, Attanayake told a sergeant major about the torture. Consequently, the officer examined the victim on the understanding that he would also take a statement. In Attanayake's statement, he included that three members of the Matale police, including Sgt Ekanayake, had severely beaten him. That night, he was taken to the Kandy Prison on Raja Weediya and at around 8:30pm was examined by the sergeant major. After giving a statement under section 761, the victim was then taken to the Bogambara Prison and then taken to

the pre-trial detention section, after being produced before the court on 26 February 2007, where he was remained until 5 March 2007. After his release, the photos of torture marks on his body were taken immediately.

The victim has complained to the HRC regarding the torture but no action had been taken.

#### **166. Randeniyage Yureshani Damayanthi: Brave woman exposes unlawful arrest, detention and torture of a young fisherman**

On the morning of 1 March 2007, two officers from the Special Unit of the Kalutara police went to the house of Mihindukulasuriya Varnapelige Maheshan Manojith Silva. The officers were in civilian clothes and travelling by bicycle. They detained Silva but they did not explain the reason for his arrest and nor did they produce a warrant. Silva was handcuffed and taken to the Kalutara Police station.

When the victim's wife Randeniyage Yureshani Damayanthi (aged 18) asked why her husband was being arrested, she was told by one of the officers that if she wanted to know then she needed to go to the Kalutara South Police station.

Accordingly, she went to the Police station and asked IP Udayanga why her husband was arrested. She was told that her husband was not there and she should go and speak with IP Nimal Karunaratne at the office of the ASP. When Damayanthi went to the ASP's Special Unit office, she discovered that one of the officers who had taken her husband into custody was present. She asked again about her husband to the officers; however, they claimed that no such person had been brought there.

Damayanthi did not give up and she insisted that the officer whom she was talking to was one of the police officers who arrested her husband. The officer then admitted that the victim was at the office and said that she could see her husband but could not speak to him.

The officer then brought her to a dark room where all the windows had been closed. There, she witnessed her husband handcuffed on a chair. She asked why he was brought there; IP Nimal Karunaratne responded for him and said that he had stolen three bangles (bracelets). In retorting the remark, Damayanthi strongly denied such accusations. However, the officer threatened her that he would arrest her, since she was suspected for her involvement in the theft.

After the conversation, Damayanthi was violently forced to leave. The officer strongly pushed the eight-month pregnant woman by her stomach. The police used such force that it may have jeopardized the health of her soon to be born child. Then when she asked the officer not to beat her husband since he was still recovering from chicken pox, IP Nimal Karunaratne yelled at her with disrespectful language and said that her husband had a mistress. The IP continued to verbally attack the woman and said that her family was disgraceful.

Later on, Damayanthi informed her husband's parents about the situation. The father of the victim went to the Police station to see his son in the afternoon that same day. However, IP Nimal Karunaratne threatened his life.

The victim's father left the Police station and came back with a lawyer who was able to figure out that Silva was arrested on a charge of theft that had happened in Payagala. Then IP Karunaratne said that the victim would be kept at the Police station for further inquiry and that he would be handed over to the Payagala police.



The second time Damayanthi visited the victim it was already after he was brought to the Payagala Police station. When she arrived at the station, she was not allowed to go inside of the building. When she refused to leave and continued to stay outside the Police station she saw IP Nimal Karunaratne.

About an hour later, Damayanthi was allowed to see her husband at the Police station and heard that he had been severely beaten and was forced to confess to the theft of several items from a house in Payagala. The victim's wife then asked the OIC of Payagala about the original complaint made against her husband. She learned from the OIC that IP Nimal Karunaratne lodged a complaint accusing her husband of a robbery involving gold jewellery from the daughter of an ASP, named Camilus. However, when Damayanthi visited Camilus to ask about the complaint made against her husband, she soon learned that the family had never made such a complaint.

#### **167. Daluwattalage Gamini Weerasinghe: Assaulted by police at bathing spot**

On 3 March 2007, Daluwattalage Gamini Weerasinghe was with his friends at a public bathing spot, Julis Mudalalis Bar at Pathulpana. By accident, a fight broke out between Gamini Weerasinghe's side and another set of people who were also enjoying themselves at the same spot. One of Gamini

Weerasinghe's friends was seriously injured and they were scattered. On the way to his home, Gamini Weerasinghe and his friend, Suranga, encountered some people in three-wheelers, including some persons who had fought with Gamini Weerasinghe at the bathing spot, came and caused injuries to them. Then those who assaulted Gamini Weerasinghe and his friend took them to the Ratnapura Police station saying that they were from the police. Gamini Weerasinghe and his friend were once again brutally violated in the Police station.

On 4 March 2007 Gamini Weerasinghe's father lodged a complaint over the phone to the HRC at around 7:30am. When the victim's father and some neighbours went to the Police station to see the victim at 8:30am, they were not allowed in. They could not meet him until they complained about it to the HRC again. When the family met the victim at the Police station, they saw the assault marks covering the victim's body and were told that he had been violated in a most inhumane manner. The victim could hardly speak at that time.

On the same day, at 7pm, the victim was brought before the magistrate's court on a fabricated case. Lawyer Gamini Ratnayaka requested that the victim should be given immediate and proper medical treatment but the victim was kept in the Kuruvita Prison hospital, which did not have sufficient medical facilities.

Gamini Weerasinghe lodged a written complaint to the HRC, NPC, IGP and Prison Commissioner. No serious action had been taken to investigate the incident and arrest the alleged perpetrators so far.

### **168. Jayasingh Archchilage Somadasa: Alleged assault of two men by the Meegahatenna police in Kalutara**

On 4 March 2007, Jayasingh Archchilage Somadasa, an 80-year-old man residing in Saman, Wele Gewatte, Palawatte, received a letter from the Meegahatenna Police station calling him to report to the Police station for an inquiry on the next day. The letter was delivered to the house where his relative named Mallawa Archchige Pradeep had lived. He thought that the letter would relate to a complaint that he had made at the Police station on 27 September 2006, which had been completely ignored at that time.

On 5 March 2007, J.A. Somadasa went to the Meegahatenna Police station as he was instructed. But once he arrived at the Police station, he came to

know that the matter was not about his complaint of 27 September 2006 but another complaint over a land dispute in which his name was identified as a disputing party. According to the victim, one SI Hemapala abused him with foul and filthy language while inquiring about the details of the land dispute. When J.A. Somadasa said that he gave the disputed land to his nephew M.A. Pradeep, SI Hemapala shouted at him and told him to bring his nephew.

At that time, M.A. Pradeep was by coincidence at the same Police station to withdraw a complaint he had made before. When he was leaving the Police station he heard his uncle J.A. Somadasa calling him from behind. When he turned back, he saw SI Hemapala hitting his uncle's chest with a huge book.

Then SI Hemapala hit M.A. Pradeep on his ear and shoulders and dragged him by his shirt and pushed him towards a table. Although he repeatedly asked the SI for the reason of his assault, SI Hemapala simply ignored him and assaulted him again. M.A. Pradeep was then ordered to sit on a bench nearby. Other people in the Police station witnessed the incident. The victims report that the SI Hemapala seemed to be under the influence of alcohol.

Later, the uncle and the nephew lodged written complaints to various government authorities, including the NPC, IGP, ASP-Legal, and SP Kalutara, demanding disciplinary and legal action against the concerned SI. However, no serious action had been taken to investigate the incident and punish the responsible SI.

### **169. Lakam Mohottilage Anthony Newton Appuhamy: Alleged brutal assault of a bus driver by a traffic police officer**

A 39-year-old bus driver was allegedly tortured by a traffic police officer near the Waikkala Railway Gate on 11 March 2007. Lakam Mohottilage Anthony Newton Appuhamy was driving a Wenappuwa Depot bus bearing registration No. 62-3973 along with a conductor named Rohana Kumara on the Negombo-Wennappuwa bus route. When the bus approached the Waikkala Railway

Gate at about 2:15pm, a traffic police officer pulled over the bus for what appeared to be a routine road check.

The victim reports that he was brutally tortured without being informed of any offence that he might have committed. The victim states, “A police officer gave the signal for me to stop the bus. Accordingly I stopped the bus on the left hand side of the road and walked up to the police officer. Then the police officer too came forward and said ‘Is this the way to drive you bastard?’

and slapped me. Then I asked him, ‘Sir, why are you assaulting me?’ Then again he slapped me.”

The police officer continued to violently assault the victim and used verbal threats. Although the victim continued to plead for his life, the police officer did not listen to him. The police officer then pushed the victim towards the police car and hit him once more. The victim also stated, “Then he called me near to the other police officer and said ‘Just watch what I am going to do to you’. Then I told him ‘Please forgive me if I did anything wrong, if I made a mistake give me a charge sheet’. Then he said ‘I do not care about those f\*\*\*king things. Take this and get out.’” The officer then handed the victim a temporary license that identified the perpetrator as PC S.L. Amaranath (No. 28441).

Once the incident had ended, bus conductor Rohan and other passengers who witnessed the attack assured the victim that they would be willing to testify and provide any evidence they could. When the victim returned to the Wennappuwa Depot, he complained to the transport manager, Sisira, who then reported the incident to the Emergency Unit and made arrangements for the victim to be admitted to hospital. The victim was warded at the Government Hospital, Marawila between March 11 and 13, where he was treated for injuries to his right ear as well as severe headaches. After the victim was released, he had to undergo continued medical treatment for another three days.

#### **170. Rajapaksage Don Saman Nilantha: Alleged arbitrary arrest and brutal assault of a policeman by other police**

The victim, Rajapaksage Don Saman Nilantha (aged 42), a sub-inspector of the traffic police in Benthota, was off duty between 13 and 15 March 2007. At around 9:05am on March 14, when the victim stopped and got off his motorcycle in front of the Baduraliya Police station to talk with a friend, three officers from the station started publicly assaulting him both verbally and physically.

In great amazement, the victim then tried to identify himself as a police officer; however, they ignored him and continued beating. After being handcuffed, the victim was brought to the room of the OIC, where he was allegedly stripped of his clothes and had his wallet as well as his motorcycle taken. The officers did not provide any explanation why the victim was being arrested and he was not allowed to inform his family about the detention.

R.D.S. Nilantha then had to sit on a chair in front of a cell. Later at around 10am, SI Dammika recorded a statement and the victim was forced to sign it. He remained sitting on the chair in front of the cell until around 3:30pm. During that time, he was not provided with any food or drink.

Later on that day, R.D.S. Nilantha was produced in front of the Mathugama Magistrate's Court. The victim claims that he was framed with false charges of obstruction police duty and criminal obstruction. R.D.S. Nilantha was released on bail of Rs. 2500 and surety bail of Rs. 50,000. His wallet and motorcycle were returned when he was released.

The brutal assault resulted in R.D.S. Nilantha sustaining injuries on his body that were so severe he had to be admitted to the Waththawa Government Hospital on March 14. There were many marks on the victim's body, and he claimed that he experienced great discomfort because of the pain in his chest and other parts of his body. Due to the seriousness of his injuries, R.D.S. Nilantha was transferred to the Nagoda General Hospital where he could receive intensive medical treatment. He remained in hospital until March 19.

On March 23, R.D.S. Nilantha was informed that he had been suspended because of the charges laid against him by the Baduraliya Police. At around 10am on the same day, the victim's wife answered his phone, since he was not at home at that time. The caller then told her that her husband would be sent to jail soon.

R.D.S. Nilantha requested that disciplinary action be taken against the three police officers of Baduraliya Police station: Namal Liyanage, Sgt Perera (No. 30073) and Sgt Gunaratne (No. 30117) on grounds of unlawful assault, no presentation of warrant and allegedly filing fabricating charges with lack of substantial evidence.

R.D.S. Nilantha sent a written complaint to the authorities including the HRC, NPC, IGP and DIG of the Legal Division.

#### **171. Kuruthanthrige Lakshman Gunasekera: Alleged brutal assault of a man by Ratnapura Police**

At around 11:30pm on 15 March 2007, Kuruthanthrige Lakshman Gunasekera from Dambuluwana, Ratnapura, was patrolling around his farm with his gun as usual to protect his cultivation from wild animals. He then heard someone talking to him using foul language and then two persons appeared and grabbed him. These two persons who were wearing civilian clothes identified themselves as police officers but did not produce any official identification. They asked the victim that if he was a criminal and then one of them allegedly started to hit him about the head, face and spine with a gun. The other officer also hit the victim with his fist and kicked him while another person came to the site by police jeep and also joined in the assault.

Meanwhile, the victim's wife and the mother-in-law rushed to the scene and kept pleading with the police officers stop beating the victim. However, the officers continued beating him. Some other

people from the village also came to the site and pleaded with the officers to stop beating the victim but they too were ignored. Eventually the victim was taken to the police jeep and pushed inside.

The victim was taken to the Ratnapura Police station. On the way to the station, he was continuously beaten. The victim's neck was squeezed. While travelling in the jeep, the victim noticed that the three police officers had taken alcohol and appeared to be drunk.

From the Police station, the victim was then taken to the JMO to whom he reported the assault by the police officers. The victim complained that he had severe pain in his head and in the eyes, which were swollen due to the assault. The JMO asked the victim if he was drunk at the time of the incident and he replied that he had taken some alcohol as he usually does, but he was not drunk.

After the interview with the JMO, the victim was brought back to the Ratnapura Police station, where he was detained in the lock-up. In the cell, the victim allegedly heard a conversation between police officers who assaulted him and the other officers saying that the victim approached the officers with intent to shoot them when they were mending the wheel of the jeep.

The victim was released the following morning without being charged. Later on, the victim was admitted to the Ratnapura Hospital, due to severe pain in his head and the eyes. A JMO in the hospital again examined him; however, the Police stationed at the hospital did not record a statement from him.

On 22 March 2007, the victim complained about his assault to the ASP of Sabaragamuwa. The ASP then sent a letter to ask for further action from the SSP of Ratnapura division. Subsequently, the police restored the victim's statement. Furthermore, the victim sent a written complaint to several authorities, including the HRC, NPC, IGP, DIG of the Legal Branch, and the Attorney General.

## **172. Dammika: Illegal arrest and torture of a mentally impaired man**

At around 2pm on 16 March 2007, Dammika was on a bus with his mother, Haththatuwa Gamage Mallika, and some other family members. He is 22-years-old and mentally impaired. Mallika recalled that she saw a police officer in plain clothes named Laksiri shout to them, "There is the thief, catch him." When Dammika and his family got off the bus, four police officers in plain clothes arrested Dammika, and took him in a jeep to the Akmeemana Police station. Mallika asked why her son was taken, but she was only told to come to the Police station.

During police custody, Dammika was allegedly assaulted and interrogated, despite his mental disability. He was asked about the location of the stolen goods, and he replied that the goods were in his home. Dammika was then taken back home and asked to give out the stolen goods. Two police officers named Somapala and Bolai searched, and took some imitation goods with them. While they were going to leave the house, the victim's father told them that the goods were only imitation. The officers threw them away, and assaulted Dammika again. The victim's parents tried to stop that, but they were assaulted too. The victim was then taken back to the Police station.

On 17 March 2007, Mallika visited the victim in the police cells. An officer told her “not to wipe her thief son clean” and that mother and son both “will be put into the lock up”; the officer known as Bolai then pushed her away. When the police officers were not there, Dammika told his mother that he was assaulted, and he was also threatened not to tell that to his mother.

Police officer Somapala then took a statement from Dammika. Somapala allegedly shouted at him, “Tell this woman were you assaulted by us?” “Tell us at what price did you sell the golden goods for? Tell us that you took Rs. 4700.” The victim then agreed to everything, and admitted that he had given everything to his mother. Somapala and the other officer then threatened Mallika to confess that she had brought a TV with stolen money, and threatened that she and her son would be produced in court.

On the same day, the Akmeemana Police brought Dammika home again. He was asked to show the location of the stolen goods once more. His father and the youngest brother were at home. Dammika again showed the police the imitation goods. The officers were very angry, and shouted to his father if he raised his children as thieves.

The officers then took the Dammika to the houses where the theft happened. The residents of the house said the victim was completely unknown to them. The officer again beat him and took him back to the Police station.

On 19 March 2007, through attorney-at-law Mohamed, the family learned that Dammika was produced to court. When Dammika met his parents, he was in a very bad condition and could hardly talk. He said he was assaulted again on his head, chest, hands and feet with batons.

### **173. Senaka Ekanayake: Alleged torture and fabrication of charges against a journalist by Kalpitiya police**

Senaka Ekanayake is the editor of Satana, a local newspaper meaning ‘fight for justice’, which has been published bi-weekly for 19 years. On 24 March 2007, Senaka Ekanayake visited Kalpitiya and collected information regarding certain activities of the OIC of the Kalpitiya Police, Lakshman Ranwalarachchi. He also had with him a list of persons who had disappeared from that area. At 6:30pm on the same day, he was stopped at a checkpoint on his way back by officers of the Intelligence Unit of Kalpitiya Police. They were in civilian clothes and all were under the influence of liquor.

According to the information received, the officers searched and confiscated all his items: his national identity card, media pass, passport, Fuji camera, Panasonic digital camera, Sony cassette recorder, two CDs, his books, wristwatch, a gemstone worth Rs. 6000 and Rs. 6280 cash.

After they took Senaka Ekanayake to the Kalipitiya Police station, they handcuffed and tied him to a cell bar and severely assaulted with an s-lon pipe (PVC pipe). Senake Eknayake identified them as OIC Lakshman Ranawalarachchi, SI Arawin, PC Sunil (bearing badge No. 12601), PC Dhammika (No. 33446) and Sgt Indunil (No. 24011) among others. While beating him, they scolded him in foul

language and told that they could make him out to be a criminal in just one minute with their pens. They removed the handcuffs some time later and then put him in a cell after kicking him several times.

At around 10pm, some police officers came and started pouring kasippu, illegal local liquor, on his body and forcibly into his mouth, to which he protested. They took all his clothes off and photographed him nude while making fun of him, saying that a great media person was naked after consuming liquor. After they left, Senaka Ekanayake managed to cover himself with the few clothes available and found that he was bleeding from his nose. There was blood on his face and two of his teeth in the upper jaw were also damaged. At around midnight, when he tried to lie down on a bench, some police officers came again and poured cold water on his half naked body from a hosepipe for about thirty minutes.

At 6am on the following day, March 25, he received his trousers and SI Arawin and PC Indunil told that he would be given police bail if he signed a statement in the complaint book, which he refused. Then, SI Arawin took a pistol and pointed it at his head, threatening to kill him if he did not comply. He then asked to be allowed to read the statement but this was denied. Finally, he was forced to sign the unread statement and again put into the cell. Later he was given some bread for breakfast but he was not in a position to consume it and for that too he was scolded. Senaka Ekanayake says that his whole body was aching and he felt lifeless.

At 3pm, the police returned his bag and his books to him but did not give other items including his national identity card. When he had queried the missing items he was told that they had been confiscated. He only received Rs. 702 back. He was taken to a medical doctor who refused to examine him. Then, he was produced before the Magistrate, Puttlam where the police obtained a detention order under the Emergency Regulations. (Iqbal, attorney-at-law, was appointed as an acting magistrate due to the absence of a judge.) He attempted to talk to the acting magistrate but failed due to the interference by the police officers.

He later learned that he faced three charges. The charges were (1) indecent behaviour being under the influence of liquor within the Kalpitiya police area, (2) threatening the OIC and police officers with death threats; and, (3) insulting and defaming the president and his defence secretary.

At 8pm he was taken to the detention centre in Puttalam. A jail officer, Gunepala, recorded a statement from him about the incident and he signed it without reading it.

Next day, on March 26, he was transferred to a prison in Negombo. Another jail officer, Samarjeewa, recorded a statement from him and he was warded in the prison hospital in Negombo because of the wounds caused by torture.

When he was taken to Puttalam and produced before Additional Magistrate Anusha Fernando, Kalpitiya Police objected to bail so he was re-remanded and his case was fixed on April 23. Senaka Ekanayake was very sick so he could not attend the court on that day. Due to his absence, the court issued an open warrant and the next date was fixed on July 30. (An open warrant is a warrant that a

magistrate gives authorities to all police to take action as indicated on the warrant. It is normally used when the police cannot find a person charged. However, in this case, the court was seemingly not aware of his whereabouts and that he had already been in custody since 24 March 2007).

On November 5, Senaka Eknayake was granted bail at the hearing but he could not find anyone to fulfil the bail conditions. On December 3, his case was again taken up whereupon one of the conditions of Rs. 25,000 was removed and the next date was fixed on March 26, 2008. On January 4, a provincial council member from Kalpitiya signed for his bail and he was released.

According to Senaka Ekanayake, while he was in the police cell, he overheard that Lakshman Ranwalarachchi, the OIC of Kalpitiya Police station, had tried to collect information from various sources to prove that he is a rebel, a terrorist and had spoken against the president and the defence secretary in order to fabricate a case against him. His relatives and friends received several threatening calls concerning him. He further said that under the conditions of bail he is in a very dangerous situation because he has to go out to the Kalpitiya Police to report every last Sunday of the month.

#### **174. Wannakuwatta Waduge Tharaka Aruna Shantha Kumara, Dombagaha Pathirage Jayalath Kumara and Baminiyahandige Wasantha Barathi Peris: Three men violently assaulted by police over alleged fabricated charges**

According to the information we have received, at around 7pm on 24 March 2007, Wannakuwatta Waduge Tharaka Aruna Shantha Kumara, Dombagaha Pathirage Jayalath Kumara and Baminiyahandige Wasantha Barathi Peris were arrested by police officers of the Panadura North Police station near the Keselwatte mosque. The police officers, some of whom were in uniform and others who were in civilian clothes, did not produce any arrest warrants or other valid documentation before the arrest. The police also failed to offer any explanation as to why the three workers were being arrested. It has been reported that the victims were violently hit and kicked about their heads, faces and stomachs during the arrest.

The three victims were then taken to a jeep and brought to the Panadura North Police station. Once again the victims were brutally assaulted at the Police station by the OIC Prasana and another officer called Lalith. Due to brutal assault, one of the victims, B.W.B. Peris, suffered several broken teeth.

The victims were then sent to the Panadura Hospital on the same day. However, out of the three, only W.W.T.A. Shantha Kumara was examined, and then they were asked to sign a blank paper. When B.W. Barathi Peris refused to do so, the doctor wrote down something on the blank paper and gave it back to him; however, the police officer present immediately took the paper before he signed it and allegedly assaulted him in front of the doctor. Two police officers (Nos. 35188 and 63974) threatened D.P. Jayalath Kumara that he would be charged with either illegal possession of drugs or with carrying out bombings.



After that, the three victims were all admitted to the Panadura Hospital and their hands were cuffed to the beds. On March 25, when the magistrate examined them at the hospital the three victims told the magistrate that they had been tortured. However, the magistrate ordered them remanded in police custody at the hospital. The victims also reported the incident to the JMO when the officer examined them on March 26. However, it is unknown whether either the magistrate or the JMO recorded the victim's statements.

On March 26, W.W.T.A. Shantha Kumara was transferred to the remand prison in Kalutara. The other two victims were brought to the Panadura Magistrate's Court, which ordered both men remanded at the Kalutara remand prison later that evening.

On March 29, the three victims were again produced before the Panadura Magistrate's Court, facing allegedly fabricated charges by the police. Each of them was released on bail of Rs. 7500 and surety bail of Rs. 75,000.

The victims sent a written complaint about the incident to various governmental authorities, including the HRC, NPC, IGP, DIG of the Legal Branch, and the Attorney General. However, no action had been taken by any of these authorities.

#### **175. Ajith Shantha Fernando: Assaulted and threatened on a personal matter**

On 25 March 2007 an inspector working at the office of the SSP of Negombo allegedly assaulted and threatened a man thereby abusing his authority. The victim is in fear for his security because a group of policemen came to look for him after he lodged a complaint against the concerned inspector.

Ajith Shantha Fernando was a resident of No.51/3, Anthony's Road in Periyamulla, Negombo. At around 10pm on 25 March 2007, when he was parking his three-wheeler at Periyamulla Bus Depot Junction, IP Clement Fernando while wearing civilian clothes parked his motorcycle alongside. IP Fernando, who smelt heavily of wine, asked Ajith if he had a knife. When Ajith answered he did not carry anything like a knife, IP Fernando started shouting and assaulting him, demanding to know why Ajith had attempted to assault his driver named Riffas.

Ajith was seriously assaulted on his chest, neck and stomach. Despite the fact that Ajith was protesting his innocence the IP continued to beat him. When the assault was over, Ajith told the inspector that he would go to the Police station to lodge a complaint against him. IP Fernando then allegedly threatened Ajith saying, "Even though you go to the Police station, you can do nothing to me. Once I give a call to the Police station, you will be arrested."

According to Ajith, five days earlier he had asked Riffas to return Rs. 5000 which Ajith loaned him over one year ago. Instead of paying the money, Riffas immediately went to IP Fernando and allegedly asked for help in dealing with this private matter. Ajith says that this is the reason behind his assault and intimidation by the said inspector.

That night, Ajith could not sleep due to the pain and went to Negombo Base Hospital with his friend at 1:15am on March 26 to get medical treatment. On the way to the hospital Ajith was stopped by two traffic police officers. When he told them he was on the way to see a doctor because he had been assaulted by a police officer, he was told to go to a private hospital because all the doctors at the government hospital were very busy. The officers also told Ajith to come to the office of the SSP tomorrow to meet them. The victim could not help but going to the private hospital to be treated.

On 26 March 2007, Ajith did not go to the office of the SSP fearing further harassment by the police there. Instead, he went to Police Headquarters in Colombo to lodge a complaint against the said inspector.

The following day, several unidentified police officers in a car came to Ajith's village and looked for him. The police officers neither identified themselves nor informed the reason as to why they were looking for Ajith. When the officers asked about Ajith, one of his friends pointed in the wrong direction, as he was concerned about Ajith's security.

#### **176. B. Sumith Priyantha Fernando: Brutally tortured and denied food by SIU officer**

On 26 March 2007, several policemen had arrived at the place where B. Sumith Priyantha Fernando was working. The policemen, who were later discovered as attached to the SIU in Katukurunda, Kalutara police division, asked Fernando if his name was 'Manju'. When Fernando replied that he is known as 'Suddha' but his real name is Sumith, the police quickly told him he is the person they are looking for and immediately handcuffed him.

One of the policemen carrying a handgun immediately forced Fernando towards the motorcycle rickshaw the police are using as service vehicle. He was taken towards the house of Sumith Perera in Kitumithugama, Maggona. But since Perera at the time was not at home, they proceeded to the SIU in Katukurunda. Fernando was taken inside a room and was forced to sit on the floor with his handcuffs on until about 9pm. While in custody, the police repeatedly shouted at him and verbally abused him with foul language.

At around 9pm, Nimal Karunaratne, OIC of the SIU, arrived and started questioning Fernando regarding a theft. Karunaratne verbally abused him with extremely foul language. He ordered Fernando to stand against the wall at the corner of the room and started brutally beating him with a wooden club. The assault and questioning of Fernando lasted for almost one hour. Fernando suffered severe injuries to his body and had his left toenail damaged causing him unbearable pain. Before leaving the room, Karunaratne instructed Fernando to sleep on the floor. Despite serious injuries and unbearable pain, the policemen did not bother giving him medical attention, food or water.

The following day, March 27, Fernando's family arrived at the Police station to visit him but they were not allowed to see him. The food items they were carrying also never reached him. On that day also, Fernando was forced to sit on the floor with his handcuffs on. At noon, Fernando was taken to a storeroom where lunch was served to him two hours later. While eating, although the police briefly removed his handcuffs, they kept his left hand handcuffed to a window. At the time, another person named Amal was also taken inside the room with him. About 7pm, Fernando and Amal were taken to Karunaratne's room.

While inside the room, Fernando noticed seeing Sumith Perera in another room. It was Perera whom the police had earlier looked for at the time of his arrest. At 9pm, Karunaratne went inside their room and once again severely beat Fernando and Amal separately.

On March 28, Fernando was locked inside a storeroom. At night, Fernando was taken inside Karunaratne's office. He allegedly saw Karunaratne and some other policemen having a drinking session inside. Suddenly, Karunaratne received a telephone call. Soon after he left, telling his companions he would join them later. On March 29, while inside Karunaratne's room, the police forced Fernando to make a statement and had him photographed. About 7pm he was taken to the Payagala Police station where he was detained until the next day, March 30.

On March 30, at about 4pm, Fernando and Amal was taken towards the magistrate's court where the police allegedly filed fabricated charges against him. On May 5, Fernando was released on bail after appearing before the court. After his release, Fernando's sister and brother-in-law told Karunaratne had warned them that, "However long it takes he will ensure he [Fernando] is arrested again or else that he will be eliminated". It was his sister and brother-in-laws who assisted him in securing bail for his temporary release.

Fernando had since been suffering from severe pain and bruises as a result of brutal beatings inflicted on him. He has been taking ayurvedic (homeopathic) medicine to treat his injuries. Fernando filed a complaint against Karunaratne and his men before the IGP, NPC, HRC and SSP of Kalutara.

### **177. Maha Hewage Sumith Perera: Torture by the SIU, Kalutara**

Maha Hewage Sumith Perera is a 32-year-old three-wheeler operator residing at 52/A Henawatte, Maggona. On 26 March 2007, officers of the SIU of Kalutara Division came in search of Perera, who was not at home at that time. The police then left a message with his wife requesting him to go to the office of the SIU at the Kalutera Police station.

At around noon on the following day, Sumith Perera went to the SIU office, where he was allegedly handcuffed and made to sit on the floor. At about 9pm that evening the OIC of the SIU, Nimal Karunaratne, came in, ordered the victim to stand and questioned him about certain thefts using foul language. Sumith Perera then realised that he was being detained in the said OIC's room.

When Perera told the officer that he knew nothing about the thefts, the OIC made him lean against the wall and assaulted him with a pole about three feet long. The OIC beat the victim's feet, back and shoulders in a most inhumane manner. After the brutal assault, the OIC questioned the victim about the theft cases again. When Perera kept insisting on his innocence, the OIC again assaulted him. According to Perera, the OIC interrogated him while torturing him until 11pm on that night. The OIC then left the office, saying that "we will see in the morning".

Sumith Perera said that there were three other detainees who were arrested on suspicion of being involved in the same theft case. He said that all three persons were also tortured. All four of them were kept handcuffed within the room of OIC Nimal Karunaratne overnight.

On the following morning, the four men were not given anything to eat or drink. The OIC came to the office at about 11am and sent the three other persons out of the room. He then interrogated Sumith Perera in a similar manner as he had done the previous day. When the victim insisted his innocence, the OIC hit him with his fist on the right cheek and on his chest.

There were three other police officers in civilian clothes present in the room at the time. The OIC allegedly told the officers that it was useless to hit the victim like that and ordered them to bring him a pole. One of the officers then handed the OIC the same pole with which Perera had been tortured the previous day. The OIC then got Sumith Perera to lean against the wall and assaulted him.

The OIC also took Sumith Perera's mobile phone and threatened him continuously saying, "Even if you escape this time, I will not let you live, I will place a bomb and catch you or I will see that you die with a bomb, or I will plant heroin. You will then be put to the High Court and then you have to pay at least Rs. 5000 to lawyers."

After the assault, the OIC and some other officers took the victim into a white van and brought him to his sister's house. The vehicle did not stop right at the house. Instead it stopped ahead and Perera was taken down in handcuffs and forced to walk to his sister's house, apparently in order to embarrass him. At his sister's house her TV was taken into police custody.

The police then took Sumith Perera to his house where they searched his household. The victim's house windows were not completed and OIC Nimal Karunaratne took out one of them. Sumith Perera's wife was not at home at that time.

Perera was brought back to the SIU's Office and again questioned about the alleged theft cases and tortured in the same manner. In the meantime, three TVs were taken into the custody of SIU from the areas of Beruwala, Payagala and Maggona. On that night after the OIC left the office, the victim and three others once again slept inside the OIC's room like the previous day.

On March 28, the victim's wife Vidanalage Renuka Subashni complained about her husband's unlawful arrest, detention and torture to the HRC, NPC and IGP. According to the victim, his wife and a relative who visited him at the SIU office several times witnessed the injuries sustained by the assault of OIC Nimal Karunaratne.

On the same day, the SIU officers took a statement from Perera and three other detainees. An officer named Suminda also took the victim's photograph. When taking the photograph, the officers covered the victim's handcuffs with a T-shirt so that they did not appear in the photograph. Photographs were taken of Perera both alone and in the company of the three other persons.

At around 6:30pm on the same evening, a person came to meet OIC Nimal Karunaratne. At that time Perera and the three others were shifted to a room behind, which was filled with bottles and cans of illicit liquor that had been confiscated in raids. They were kept there until 8pm and taken back to the OIC's room. On that occasion, the OIC and some other officers allegedly consumed liquor in front of Perera and the three others. All the four were then sent to another room and were not tortured on that night. The officers drank and left the office. That night too the victim and the three others slept while being handcuffed like on the previous nights.

On March 29, OIC Nimal Karunaratne arrived at the SIU Office about 10:30am. He did not harass Sumith Perera on that day but detained him in the room where the illicit liquor was kept. At about 8pm on the same day, Sumith Perera and the three others were taken into the same white van and handed over to the Payagala police. Finally their handcuffs were removed and they were put into the police lock-up.

All the four were then detained at the Payagala Police station until around 3pm on March 30 when they were produced before the Magistrate's Court of Kalutara on alleged fabricated charges and sent to a remand prison until April 5. Due to the brutal torture, Perera was in a poor condition and he reported this to the officials of the remand prison. However, they did not arrange any medical attention for him.

On April 5, Sumith Perera was again produced before the Magistrate's Court of Kalutara and released on a bail of Rs. 5000 and on a surety bail of Rs. 150,000. After his release, the victim lodged a written complaint to the HRC, NPC, IGP and SSP of Kalutara division.

### **178. M. Lal Fernando: Severe torture by the Negombo Police on the inducement of a third party**

On 6 April 2007 at about 7:45pm between 15 and 18 armed policemen in civilian clothes in three police vehicles visited a house in Kudapaduwa, Negombo where M. Lal Fernando was residing at the time. Several of them broke into the house through the back door. Fernando heard the commotion and came outside. Two of the policemen pounced on him shouting "you are our man" and gave Fernando two hard slaps on his face.

Fernando recognised three policemen as Fernando, Bandara and Priyanath and asked them why they had broken into the house and assaulted him. The policemen replied, "How dare you spit on Bada (big-tummy) Nimal"? Bada Nimal was a prominent businessman of the area involved in the fisheries

industry. Fernando denied spitting at Nimal and insisted that he only had an argument with him. Nonetheless the policemen handcuffed him and dragged him outside the house.

Outside, Fernando says he saw eight policemen nearby and seven more further down the road. The policemen continued to drag Fernando up to the Kudapaduwa Church and severely assaulted him. The Negombo Police OIC also arrived at the scene and striking him queried sneeringly, “How dare you spit on the face of Bada Nimal?” When Fernando continuously denied doing so he says the policemen thoroughly assaulted him for about 15 minutes.

At the time, Fernando’s wife came outside the house with a pair of trousers and asked the policemen to give her husband room to at least wear them, as he had been wearing only a towel at the time. But instead, the police pulled her by the hair, verbally abused her in foul language and chased her away. Then the towel-clad and injured Fernando was shoved into and taken away in a police jeep. The policemen continued to pummel him inside the vehicle.

They took him to the Kamachchode Junction in Negombo and pushed him outside the vehicle. Fernando says that as he fell to the ground the towel around him was thrown away and he was rendered completely naked. When a bystander attempted to help him wear the towel, he too was assaulted and scolded in foul language by the OIC. The policemen then repeated their assault on Fernando despite the fact he was lying on the ground injured.

The OIC then instructed someone to fetch Bada Nimal. After about 15 minutes when Bada Nimal came, the policemen dragged Fernando to him and forced Fernando to kneel before him and seek his forgiveness. Two policemen, Lakshman and Fernando trampled his head with their boots. Then the OIC told Bada Nimal to spit on Fernando, at which Bada Nimal spat on the ground nearby. Thereafter the OIC pulled Fernando to his feet and viciously punched his stomach. Then the OIC spat on his face.

The police put Fernando into the jeep and took him to the Negombo Police station. Fernando alleges that even at the station gate, the OIC repeatedly assaulted and spat on him. Then, some other policemen were instructed to ‘lock him up’. Policemen Bandara and Fernando asked what case to charge Fernando with at which the OIC replied “let us put a robbery case on him and send him in for a few years”. Accordingly, Fernando was locked up in a holding cell until 9:30am the next day.

The next day at about 11:30am he was taken before a JMO at the Negombo Hospital. However, before leaving, the police warned him that if he told the JMO he was assaulted by the police, they would falsely implicate him in a case and send him to jail for 3-4 years. Fernando also says the policemen boasted that they had the licence to do whatever they wanted;

they decided what to write and what cases to construct. At the hospital, the JMO examining him saw the injuries on his face and asked him whether he had been assaulted. But because two policemen were by his side, Fernando remained silent. He was taken back to the Police station where he says the OIC indicated to a couple of small bombs and an old revolver and said, “We had already prepared the goods to implicate you with but since you remained silent we will not do so.” Fernando

was then ordered to sign a statement prepared by the police. After reading its contents, Fernando refused to sign, saying that he was not involved in the incidents mentioned therein. But policemen Piyaratne and Fernando threatened him that next he would be hung and tortured unless he signed immediately. Out of fear, Fernando says he had little choice but to sign the document.

About 2:30pm, the police took Fernando to the magistrate's official residence and obtained an order to remand him for three days; however, fortunately for Fernando, remand officials noticed his injuries and warded him at the remand hospital. On 9 April 2007 he was released on bail. However, two days later, April 11, Fernando had suffered from nosebleeds and severe body pain. He had to be admitted for about three days at the Negombo Hospital.

Fernando complained to the IGP, DGP (North Western Province), HRC, NPC, the Attorney General and chief justice about the severe torture, degrading treatment, and illegal arrest and detention he suffered at the hands of the Negombo police.

#### **179. Alagappen Prabu: Beaten up after son knocked down by motorbike**

At 6:30 pm, on 17 April 2007, 3-year-old Akash was knocked down by a motorcycle in Nattaranpotha Road, Kundasale, Kandy. The family of Akash scolded the motorcyclist for his carelessness, which resulted in the small child's injury. Some time later on the same day, 20-25 men came to the family's house and started beating up the family members and damaging their house.

Police officers who received a call from Akash's father, Alagappen Prabu shortly after he knew about the assault of the family by the gang men, also beat the victims without asking what happened upon arriving at the scene on the same day. It seems that the alleged perpetrators had good relations with the police officers of the Balagolla Police station.

Small Akash was taken to the Kandy General Hospital and warded there for three days. That same evening, Akash's uncle Mahendran Sandanam and grandfather K. Selliah went to the Balagolla Police station to make a complaint; however, the police officers again assaulted them both verbally and physically and detained them instead of registering the case and writing down the victim's statement.

The alleged perpetrators were protected by the police officers, while the real victims were charged with an unknown reason. Akash's uncle, Mahendran Sandanam, and grandfather, K. Selliah, were detained in the Balagolla Police station until they were produced before the Kandy magistrate on April 18. Without any explicit inquiry or proper action on the part of the magistrate, Akash's uncle and grandfather were remanded into police custody for three more days.

The victim's family made a complaint to the ASP about the police officers of the Balagolla Police station and relocated in order to escape continued assault and harassment.

### **180. S. Kinsley de Silva: Brutal torture by military officers**

On 10 May 2007 at about 6pm, three military men in uniform together with another wearing civilian clothes arrived at the home of S. Kinsley de Silva. The military men, riding in a blue van bearing military license plate No. 28-210, entered De Silva's house while he and his family were asleep. Two of them entered by the front while two others entered by the back. They were able to do so due to the fact that De Silva's house was unfinished and the doors and windows had not yet been installed.

The person wearing civilian clothes and a companion entered De Silva's bedroom. This person pointed a T-56 machine gun at De Silva's chest and warned him not to stand up. Soon after, he started brutally beating De Silva, using his gun, before giving it to another soldier. The perpetrators forcibly dragged De Silva by his hair and arm. While De Silva struggled his sarong fell and he was dragged naked into the hall where two other military men, also carrying guns, looked on.

At the hall area, all the four soldiers started brutally beating De Silva with their fists, boots and guns one after the other. When De Silva fell to the ground the person in civilian clothes grabbed his neck and strangled him for few minutes. De Silva pleaded with them to stop but they ignored his plea. The other occupants inside the house likewise tried to stop them from assaulting De Silva, but they threatened them not to intervene otherwise they would be assaulted too. When De Silva's neighbours started gathering outside their house after they heard commotion, the military instead told them to 'to mind your [their] own business'.

Only when De Silva's injuries and eyes started to bleed the military officer stopped assaulting him. Had De Silva's wife not been able to put on his sarong and a shirt, the military would have dragged him naked outside their house towards their vehicle. De Silva was taken to a nearby Gardenia Village, where the person in civilian clothes was residing. They opened a room showing him a gun and other items to intimidate him.

Later the military men took De Silva towards the Wadduwa Police station. When they arrived, De Silva was surrounded by three of the military men while the person in civilian clothes went inside to meet the OIC. The OIC subsequently had De Silva detained inside the detention cells. While in detention for about five to six hours, the police did not provide him medical attention even though his face and injuries were bleeding. De Silva was later taken to the OIC's office where several military officers and a woman were waiting. The military officers were seen talking to this unnamed woman.

One of the military officials introduced himself to De Silva as the Commanding Officer (CO) in charge of the area where the incident took place. He also claimed to have jurisdiction over the four military men involved. The said officer threatened De Silva that he could do anything to him. He also asked De Silva whether or not he was willing to enter into a settlement or file charges against the military men in court. De Silva remained silent. At this time, the OIC quickly said that he had nothing to do with De Silva's arrest and advised De Silva to seek treatment at the hospital. The OIC also told him he would refer the matter regarding the assault to the Conciliation Board.



It was only this time where the police started recording De Silva's statement. The OIC, however, did not allow De Silva to read what the police had written nor explained to him its content. He was simply told to sign it and given a Medico-Legal Examination Form. De Silva then went to the Panadura Hospital with his family.

At the hospital, De Silva reported the torture. Several stitches had to be inserted under his eye and he had to be confined at the hospital. On May 14, a JMO examined him. He was instructed to visit the hospital three days later for follow-up medication. While in hospital, De Silva's his wife, Pushpalatha, also lodged a complaint at the Wadduwa Police station. Separate complaints were filed before the Army Commander, HRC, NPC, IGP, SSP in Kalutara and other authorities. De Silva had no charges filed against him to warrant his arrest and subsequent detention. The victim believes that an argument he had with a military man one day before the arrest could have been the reason for it.

### **181. B.G. Premasiri: Attempted poisoning by prison officer in Kandy**

B.G. Premasiri surrendered himself to the Divisional Police Office in Asgiriya, Kandy escorted by a priest on 18 May 2007 as police accused him of being involved in a murder case. After he surrendered, he was produced before the magistrate's court and remanded at the Bogambara prison. Since it was reported that there were attempts to poison him in the prison, he was transferred to Raja Veediya prison in Kandy later in 2007.

In Raja Veediya prison, Wijesinghe, a prison officer, took him to a room and slapped and assaulted him on the pretext of questioning him on November 17. On another occasion, when Premasiri returned from a court at around 3pm on 28 January 2008, the officer again called him and forced him to face the wall of a room and assaulted him till he bled from his mouth and nose.

A non-governmental organization, the Kandy Human Rights Office, wrote to the prison commissioner regarding this incident on February 19 after being informed by Premasiri's wife. However, no investigation had been conducted.

### **182. Gnanapragasam Benedict Rosery: Murdered by police**

In another case, Gnanapragasam Benedict Rosery, a 25-year-old three-wheeler driver living at Uda Peradeniya, Kandy, was brutally tortured by the Peradeniya Police. On the evening of 20 May 2007, one three-wheeler driver named Boniface asked him to go for a bath together with another man named Suresh. According to the victim, Boniface and Suresh accompanied him to his house after the bath and he said goodbye to them.

On the following morning (May 21), Benedict came to know that Suresh had been murdered. He says that strangely, on that morning Boniface sent him Suresh's wallet, which he refused to receive. Benedict then went to the Peradeniya Police station to inform them of the incidents of the previous

day and the morning. However, the police immediately took him into their custody instead. Benedict was allegedly brutally tortured and forced to confess to murdering Suresh. Meanwhile, Boniface was also reportedly arrested on a charge of murder.

On May 22, the HRC Hotline in Kandy was informed of the case and asked to intervene to stop the on-going torture of Benedict. He was only produced before court on May 23, in violation of the law. The court then ordered him to be remanded until June 4. He was further remanded on June 4.

Benedict's mother Arulmary moved to her sister's house at Meekanuwa Ampitiya, fearing possible intimidation and harassment by the police. She insists upon the innocence of her son and believes that the police implicated Benedict into Suresh's murder case without concrete evidence in order to conclude the case quickly.

### **183. Ruwantha Chrishantha Dias: Alleged illegal detention and torture**

Ruwantha Chrishantha Dias, a 17-year-old boy residing at 122, Tekkawatte, Vavuniya, was allegedly picked up by the SIU of the Vavuniya Police on 22 May 2007, when he was going to a tailor. One of the officers who illegally arrested him was identified as Karunarathne. The police did not produce any arrest warrant or other valid documents for his arrest.

He was then taken to the Vavuniya Police station, where he was brutally tortured. The police removed his clothes and tortured him, while forcing him to accept the charge of possessing five bullets. However, Ruwantha denied the accusation. Ruwantha was only produced to the court with false charges of possessing five bullets on June 7, 16 days after his illegal arrest and detention. He was then remanded.

Meanwhile, Ruwantha's parents lodged a complaint to the HRC office in Vavuniya. The parents challenged the police claim against their son and believed that the police mistakenly arrested and then tortured Ruwantha and then framed the false charge against him to cover up the incident.

### **184. Thalahitiya Gamaralalage Chaminda Weerawardene: Alleged torture and fabrication of charges by the Katadeniyawa police**

Thalahitiya Gamaralalage Chaminda Weerawardene was residing at Akkara Nine Waththe of Ullapola, Divulapitiya, Negombo district, Negombo division when on 22 May 2007 he went to Ragama Teaching Hospital to see his wife. He returned home at around 4pm. When he was having a meal two policemen in civilian clothes entered the house and apprehended him and his father Thalahitiya Gamaralalage Weerawardene. Despite repeated requests, the two men in civilian clothes did not reveal their identities.

Then T.G. Chaminda Weerawardene immediately went to the Divulapitiya Police station and reported the illegal entry into his house of two unidentified men. When he came back to home along with the officers of the Divulapitiya Police station, it was learned that the two men in civilian clothes

were officers of the Katadeniyawa Police station. The two Katadeniyawa Police officers then left. Subsequently, the father and the son made individual entries at the Divulapitiya Police station regarding this incident.

At around 7:30pm on 2 June 2007, officers from the Kotadeniyawa Police station arrested T.G. Chaminda Weerawardene when he was waiting for his mother, who went to the Buddhist temple at the Ambagahamula Hardware Stores in Ullapola village. The police neither told the victim the reason for his arrest nor presented an arrest warrant. Soon after arresting the victim, the police officers allegedly assaulted him in a severe manner. The victim was then taken to the Rural Hospital at Horagasmulla for a medical check-up. T.G. Chaminda Weerawardene said that the police officers threatened him to lie to the attending doctor that he got injured by falling from a bicycle. Due to fear, he made a false statement to the doctor. After that he was taken to the Kotadeniyawa Police station. On the way, he was again brutally beaten by the police officers and while in the Police station he was also tortured.

On the following day (June 3), T.G. Chaminda Weerawardene was released on police bail. He then got admission at the Rural Hospital at Horagasmulla for treatment for the injuries sustained from torture. However, the Kotadeniyawa police visited the victim at the hospital and allegedly threatened him with death. Due to the threats by the police he had to discharge himself from the hospital and went to the Negombo District Hospital, where he was admitted.

Meanwhile, the police post in the Negombo District Hospital did not record any statement from the victim until June 6. When an activist inquired about this matter by phone, they allegedly refused to do so. The victim says that the police post at the hospital took down his name between 4 to 5pm on June 6 but did not record his statement relating to torture. It is also alleged that the JMO delayed examining the victim until June 7. The JMO examined the victim at around 11am on June 7 and recorded the victim's statement regarding his torture by the police.

The Kotadeniyawa Police filed an allegedly false case of selling illicit liquor against the victim.

### **185. M.A.K. Wickramasinghe: Savage assault of a father of five**

At around 7:30pm on 28 May 2007 43-year-old M.A.K. Wickramasinghe was returning home from work when four policemen attached to the Eheliyagoda Police station accosted him. They immediately began to inhumanly assault him all over his body. They allegedly assaulted him with their fists and poles, kicked him and even struck him with the torch he was carrying. Unable to withstand the blows, the victim had fallen down only to be kicked and trampled by the policemen's heavy boots.

The policemen then pushed the victim into the police vehicle and took him to the Eheliyagoda Police station, where he was handcuffed and thrown into a holding cell. He was thus handcuffed throughout the night, even though he was in severe pain from the assault.

The next afternoon, the victim was taken to the magistrate's court and there he informed the magistrate about the inhuman assault by the police. Nonetheless, the magistrate ordered him to be remanded until 6 June 2007. Accordingly, he was taken to the Kuruvita remand prison where a prison officer recorded his statement regarding the incident. The victim says that he told the prison officer details about the savage attack by the Eheliyagoda police. Thereafter the victim had to be warded at the prison hospital and treated for his physical injuries. He was enlarged on bail on June 6.

The victim complained that consequent to the assault, his legs swelled up and there was a large wound on one leg caused by a pole used by the police to thrash him. The victim also says that he believes this police attack was as a result of a complaint made by his wife against him.

According to the victim, all four policemen were in uniform and arrived in a police vehicle. While recognising PC Ajith among his attackers, the victim was confident that he could recognize the others if seen again. The victim complained to the HRC, NPC, IGP and SSP of Ratnapura District.

#### **186. Jayarathne: No investigation into alleged police torture of local council member in Kandy**

On 21 June 2007, Jayarathne, a 45-year-old member of the Hasalaka local council (Pradeseeey Saba), visited the Hasalaka Police station in Theldeniya District, Kandy Division. The purpose of his visit was to inquire about an allegation of SI Nuwan Wickramasinghe's involvement in selling illegal liquor.

Being questioned, SI Nuwan Wickramasinghe allegedly started abusing Jayarathne in filthy language and physically assaulted him in front of others in the Police station. While assaulting Jayarathne, the SI further was reported to say, "We, the police, have all powers to arrest, torture and kill anybody." The OIC of the Hasalaka Police station later intervened and stopped the beating.

The following day, June 22, Jayarathne went to the same Police station to lodge a complaint of assault against the SI. However, the police refused to register his complaint. On June 23, Jayarathne he again went to the Police station and finally registered his complaint. However, the police did not initiate any investigation or arrest the responsible SI.

#### **187. U.A. Chandrasena: Severely tortured by the Badureliya police; denied medical examination by court**

At 11:30am on 27 June 2007, the victim, U.A. Chandrasena, was on his way to a funeral when four policemen in civilian dress stopped him and asked him where the kasippu (illicit liquor) was. The victim replied that he did not know. The policemen took him to a nearby volleyball court and mercilessly assaulted him with thick wooden sticks broken from an Albesia fence. He was beaten on his legs, thighs, buttocks, hands, and even on his head. The severely injured victim was then taken to

the Police station and locked up in a cell where he saw three other villagers who had met similar fates.

Soon the victim's head began to throb and he vomited several times. He begged the police to take him to hospital. The police replied that he could go to hospital if he wished, but if he revealed even a word about his assault they would fabricate a case against him for possessing hard drugs (heroin) or ganja (marijuana) and lock him up again. That night the victim was given police bail on the condition that he appeared in court on June 29 on the charge of possessing kasippu. When the victim denied the charge, the police laughed and told him they already had the 'goods' and all they needed were a few scapegoats.

The victim returned to his home. He says he was very sick but was too afraid to go to hospital to seek medical treatment for his injuries. Instead, he visited a private dispensary and told the doctor that the police had assaulted him. But when he asked for a medical report, the doctor refused and even withdrew the medication dispensed.

The victim appeared in court on the 29th. His lawyer discovered that he had not been charged with the possession of kasippu but with possession of an illegal substance called 'goda', used to distil kasippu, which was a much graver charge. The victim pleaded not guilty. The lawyer informed court that the victim had been severely assaulted by the police who had now fabricated charges against him. The magistrate asked the victim if he had any injuries. In reply the victim showed the magistrate contusions visible on his body. However, the magistrate did not make any direction that he be taken to hospital or medically examined. The victim returned home and decided to seek medical treatment from another private dispensary.

The victim was brought to a local human rights organisation, Janasansadaya, which immediately rushed him to the Nagoda Hospital for treatment. They also made provisions for him to be medically examined by a specialist at the Karapitiya Teaching Hospital, where a JMO confirmed the severity of his injuries. The victim complained in writing to the HRC, NPC, IGP, and other relevant authorities.

### **188. T. Jayantha: A man is randomly detained and extensively tortured at Bandaragama Police station**

Dear friends,

The Asian Human Rights Commission (AHRC) has received information that a young man is facing fabricated charges in Kandy Magistrate's Court. The cases against him are patently flawed and he was illegally detained and badly tortured after his arrest. We are told that the lawyer assigned to the victim by police did not raise the issue of his torture or the bogus nature of the charges with the Magistrate.

*(According to a local NGO and relatives of the victim)*

T. Jayantha was arrested by the Katugastota police in July 2007 and accused of stealing video cassettes. After being tortured in the interrogation room Jayantha reports that he fled custody by jumping out of a window, severely injuring his leg in the process.

Police re-arrested him at his home on the morning of October 15; he was at home wearing a sarong (a traditional cloth wrap). His mother, Sunethra Jayasinghe, was turned away when she tried to visit him at Katugastota that day, but when she was able to see Jayantha a day later he told her that he had been tortured again. He described being stripped naked, tied to a door and kicked by officers wearing boots, as well as being hung, beaten and slapped. His fingers and toes had bled, and Sunethra reports that his lips were split and swollen.

On the evening of 17 November officers S. Samarakoon, Sub Inspector Hemantha, Jagath and two others from Katugastota station took Jayantha to his home to conduct a search. He could only walk with the aid of a stick and was allowed to sit on the bed. When the police came across a pair of speakers they reportedly slapped the victim, making his mother faint. However she regained consciousness to hear SI Hemantha tell Jayantha that they might accuse him of having a bomb in his possession and send him to prison. Bail is usually denied in these cases.

The next morning Sunethra waited for three hours at the station but was not allowed to see her son. However, she reports hearing sounds of abuse, as well as Jayantha shouting and crying. He told her later that he was being beaten almost daily and that he had been forced to handle a parcel to create fingerprint evidence.

On October 22, far beyond the 24 hour detainment allowed by the Sri Lankan Criminal Procedure Code, Jayantha was presented before the Kandy Magistrate and accused of carrying a bomb in the left pocket of his trousers when he was arrested. However witnesses confirm that he was wearing a sarong at the time, which has no pockets. It should be noted that the victim has no confidence in his lawyer; who NGOs tell us works closely with the local police officers. He did not bring up Jayantha's torture or the matter of the fabricated charges in front of the Magistrate.

Since then the victim has been in Bogambara Remand Prison, and the Katugastota officers have filed 14 cases against him for theft, plus another charge regarding the bomb. He has been acquitted of eleven cases due to the lack of evidence, but says that he was pressured by officers into pleading guilty for the three remaining cases; in return for their help him with the more serious possession charge. This case (B2852) was last called at Kandy Magistrate's Court in July and is soon to be called again.

**189. Patikiri Arachchige Nihal Sarathchandra: Driver brutally tortured and falsely charged by the Ganemulla Police**

At around 4:30pm on 4 July 2007, Patikiri Arachchige Nihal Sarathchandra was in Ganemulla, Gampaha District, parking his three-wheel near the Ganemulla Police station. Two policemen wearing plain clothes arrived and asked him to come with them to their Police station. The police were inquiring into the complaint of Beatrice Nikalanda of Kossinna in Ganemulla made in 13 July 2006 about the theft of a necklace and a watch.

When Nihal Sarathchandra inquired as to why he was being asked to come, he was only told that he would know the reason once they arrived at the Police station. They also did not explain to him as to why he was called in for questioning a year after the complaint was made. Shortly after arriving at the Police station, two policemen took him inside a room. There they began questioning him in connection with the complaint of Nikalanda. He replied that he did not know the complainant, nor had he met her previously.

According to the complaint recorded by the police, Nikalanda was riding in a three-wheeler on her way home when two unknown persons snatched her gold necklace and wristwatch soon after alighting close to her house. She claimed her necklace was worth Rs. 21,000 while the wristwatch was worth Rs 3500. She did not mention the victim's name in her original complaint. However, she later alleged that it was the Sarathchandra who was driving the three-wheeler and that he knew the two persons who snatched her items.

The police began questioning the victim based on Nikalanda's complaint. But every time he denied any involvement, three policemen had him repeatedly beaten for 20 minutes. The complainant was present when the police were torturing him. They pounded his face using a pole and their hands. The victim was bleeding from his mouth due to beatings but the police either ignored or deliberately paid no attention to it. They also did not help him treat his wounds.

When the police subsequently conducted a parade of supposed suspects, Nikalanda identified the victim as one of those responsible in the theft of her jewellery. The police subsequently filed charges against him. The parade though was done following the victim being taken into police custody and tortured in front of the complainant. That Nikalanda could identify the victim during the parade was expected as she had witnessed the police torturing the victim.

The following day, July 5, he was produced before the Magistrate of Gampaha and was subsequently remanded until July 10. He was only released when his lawyers informed the magistrate he was suffering from injuries and required medical attention at the prison hospital.

On July 14, the victim filed a complaint with the police and IGP. His affidavits were likewise sent to the chief justice and Attorney General. After receiving those complaints, a police inquiry was initiated which resulted in an identification parade of police officers attached to the Ganemulla Police on August 8. The victim identified two of those who tortured him.

**190. Balasuntharam Thavamani: Young woman brutally stabbed to death by members of armed forces**

On 7 July 2007 Balasuntharam Thavamani (aged 27) her mother and about

20 other persons displaced by the ongoing armed conflict were seeking refuge in a single house at Paduwankarai in the Batticaloa District, Eastern Province. This area had been a stronghold of the Liberation Tigers of Tamil Eelam (LTTE).

Around 9:30pm that night several men in military uniform suddenly stormed into the house and shouted for the victim by name. As the victim failed to respond due to intense fear, the personnel entered the home and forcibly escorted her out.

When the victim's mother followed them wailing and shouting, they stabbed the young woman in the presence of her mother—a distance of about 100 meters from the home. She died on the spot after being stabbed about 12 times.

Subsequent to this killing, about 35 families in the village, fearing for their lives, fled the village and went to a nearby area. Thereafter they related details of the story to their Member of Parliament, Ariyanthiran. They are reluctant to report the incident to the authorities due to fear of reprisals. However, some of the witnesses to the incident insist they can recognize the alleged perpetrators if they are seen again.

#### **191. Thadallage Chamil Weerasena: Yet another custodial death in Ratgama Police station**

At round 5am on 21 July 2007, an anonymous caller informed Thadallage Chamil Weerasena's mother Kande Gamis Hamy that her son had been taken to the Ratgama Police station. The phone number was recorded and Hamy redialed, but the person who answered it denied calling and hung up.

At 8am Hamy went to the Ratgama Police station. She saw her son detained inside the police cells. When she tried to go near him a female constable and another officer chased her away. Her son, however, signalled to his mother by his hands that he needed a shirt.

Then Hamy went home to get a sarong and a shirt and cooked a lunch packet for her son. She asked one of the victim's friends, Kosma Nandaseeli, to give those to him. The reserve officer allowed Nandaseeli to visit the victim, but did not allow her to give him food and the shirt that she was carrying for him, only the sarong. At this time the victim told her that the police had assaulted him mercilessly. He had shown her the marks he sustained from the assault.

When the victim's elder brother, Thadallage Suriyasena, went to visit him between around 2 and 4pm, the police did not allow them to meet. Later that night, at about 11:20pm two police officers from the Ratgama Police came to the victim's house in a jeep and took his father, Thadallage Tyman, to the Police station.

The victim's youngest brother, Thadallage Jayantha, arrived shortly after and informed his mother that his brother had already died. Upon hearing the news, Hamy and her elder son immediately rushed to the Police station. There they saw the victim's dead body still inside the cell. It was



covered with a sarong given to him by his mother. Hamy said her son's trousers were tied to the prison cell's door, as high as her height. When she started crying loudly, the OIC threatened to put her inside the cell if she didn't stop.

On July 22 when Hamy went to the Police station she noticed that her son's trousers, which had been tied about as high as her the previous day, had now been tied in a place even higher. At about 9am, a doctor came and took some photographs. At about 9:30am the magistrate came as well. While they were conducting their inquiry, Hamy told them about what she noticed and told them that her son's death was suspicious. Hamy however, was not aware whether the doctor and magistrate had recorded her statements. Thereafter the body was taken to Karapitiya.

The victim's dead body was taken to the Karapitiya Hospital. His mother there noticed injuries on the back, chest and face. She also saw blood on his head and had observed bloodstains in the detention cell. But when the findings came out, a letter signed by the Additional Magistrate, Galle indicated the victim died of hanging.

No further investigations were conducted into Hamy's observations regarding the death of her son and what the victim had said before his death. It was only on July 27 that the Additional Magistrate, Galle took a statement from Hamy and her husband. There were witnesses that could give testimonies to the police regarding the death of the victim but the police did not include them.

#### **192. K.W. Upali: Assault of a 40-year-old labourer by the Dodangoda Police**

On 2 August 2007, the OIC and two other policemen of the Dodangoda Police arrested 40-year-old K.W. Upali (married with three children) at the Thudugal Junction. At the time, according to the victim, he was carrying half a bottle of arrack (a local alcoholic beverage distilled from fermented coconut sap). It is legal to obtain such liquor but the police arbitrarily arrested him.

The police took him to a house nearby and questioned him as to whether he purchased the arrack from that house. When the victim told them he bought the liquor elsewhere, the OIC lost his temper, accusing him of lying. He assaulted the victim on his neck, face and head. The victim was then taken to the Dodangoda Police station, where his friends later bailed him out. The victim complained of severe pain on his neck due to the OIC's assault.

The following day, August 3, the victim went to the Nagoda Hospital where he was admitted for medical treatment. There he complained to the doctor examining him that he had been assaulted by the police officers. On August 4 the hospital police recorded his statement. The JMO likewise examined him. But later that day, the OIC and three other policemen visited him at hospital asking for his forgiveness, urging him not to file charges against them. As an inducement, they offered to withdraw the fabricated charge they filed against him for possessing an illegal alcohol.

On August 5, the OIC again went to visit the victim and took him to the hospital police post. The OIC once again asked for his forgiveness and reiterated that in return they would withdraw the case

they filed against him. Then he allegedly forced the victim to sign a paper of which the OIC did not explain the contents nor allow him to read before signing it.

On August 6, the victim was discharged from the hospital. He was advised to continue attending a medical clinic regularly to treat his injured neck. Subsequently the victim filed a written complaint with the HRC, NPC, IGP and the Kalutara SSP.

### **193. Meera Mohideen Gafar: Brutal torture of a 20-year-old man by Galaha Police**

At 1:50pm on 9 August 2007 Meera Mohideen Gafar accompanied by his lawyer, Kularatna Bandara, went to the Galaha Police station. The ASP had earlier summoned Meera Mohideen and his uncle, Abdul Kader, to inquire into a murder case that took place at the end of July 2007.

Meera Mohideen was handed over to a female police inspector, Ranasinghe. His lawyer, Bandara, then requested the OIC of the CIB, Talwatte, to question his client properly and without using violence. But when Meera Mohideen's father visited him later at the Galaha Police he discovered that his son had been severely tortured. On the following day, he immediately informed his son's lawyer by phone. It is learned that the police officers brutally tortured him by hanging him from the ceiling allegedly inside the Galaha Police while he was being interrogated.

Upon learning that his client had been tortured while in police custody, Bandara immediately informed the OIC Talwatte about the torture his client had suffered, but he instead denied it; effectively exonerating his men without conducting any investigation.

On August 10, Meera Mohideen was taken to the Kandy Magistrate's Court. While being presented by the police, he stated that he had been severely tortured by the officers on the evening of August 9. He revealed the wounds to his legs and mouth. He could not even walk when he appeared to the court because of his injuries. But nevertheless the magistrate's court remanded him. No medical examination was conducted to verify the torture. No further investigation was likewise made into his supposed involvement in a murder case to which he maintained his innocence.

In the meantime, the victim's family and lawyer informed the HRC Hotline in Colombo about the torture and also lodged a written complaint with the HRC of Kandy. A similar complaint was filed with the DIG in Kandy.

### **194. Periyasami Niroshan: Police hold neck and repeatedly pound victim against the wall**

At around 8:15pm on 12 August 2007, Periyasami Niroshan (aged 15) and his uncle Subramaniam Nanda Kumar went out together to purchase kerosene oil. On their way, they saw and passed through a group of five persons drinking liquor inside a parked bus. When they were returning

home, the same group suddenly alighted from the bus and assaulted them. Following this they were forcibly taken to the nearby Nawalapitiya Police station.

When they arrived at the Police station, the men accused Niroshan and Nanda Kumar of stealing a battery and turned them over to the police. Immediately the police took the two inside a room and started assaulting them. They did not conduct any inquiry into the charge, nor did they inform the victims of what they were accused.

While inside the room, one of the policemen held Nanda Kumar's neck by his hand and repeatedly pounded him against the wall. Nanda Kumar vomited blood due to the severity of the beatings he suffered. The police also accused them of being "terrorists". The police slapped the boy, Niroshan, hard.

From the time they were arrested until 2pm the following day, August 13, the two were held in police custody. It was also only then that the two victims were produced in court. On the same day, the police falsely charged them for theft based on the information of the group of persons who turned them over. They were released on bail on the same day. On August 14, they had admitted themselves to the Nawalapitiya Hospital for treatment. The following day they were discharged but were told to return to the clinic for further treatment.

The victims believe that the group of persons who assaulted them and took them to the police, namely Ruwan, Bandula, Chandana, Ranji and Sula, are friends of the policemen attached to the Nawalapitiya Police station.

### **195. Vimalawathi and Chandrasiri: Slapped and kicked**

Vimalawathi and her husband Chandrasiri went to the Ahangama Police station at 10am on 29 August 2007 after they had received an order to come for an inquiry into a dispute regarding a fence with another person. In the station, they met PC Chameera, who informed them to wait for a while because the party who had lodged the complaint had not arrived. The couple waited until 1pm, and were then told by the same PC to go home. On August 30, an officer from the same Police station came to the couple's home and left a note asking them to come to the station on September 26.

The couple went to the Police station on the given date and saw the person with whom they had a dispute talking with PC Chameera. Then, the officer brought the two parties together and asked what the complaint was. The person then started to scold Vimalawathi and humiliate her in foul language in front of the officer. Meanwhile, Vimalawathi asked the officer, "Sir, What is the complaint? We are not here to get or give character certificates; please tell us what the complaint is." However, the person slapped Vimalawathi on her cheek. In addition, PC Chameera stood up and also scolded her soundly, using foul language and accused her of slapping the person. He further allegedly slapped her several times on her cheek and kicked her in the stomach.

Then, Chameera caught her by her hair and dragged her to the room of the OIC. In the room, the officer called the person also. He told the OIC that

Vimalawathi had assaulted the person and continued to scold her in foul language in front of the OIC. When the OIC saw Chandrasiri he scolded him saying that he did not know how to bring up his wife, and attempted to assault him. The OIC then threatened Vimalawathi that if she were not a woman they would 'do her good' and then asked the PC to put her into the police cells. Vimalawathi was put into a cell after two male inmates were removed. The two who were taken out of the cell were told to sit on a bench nearby. A little while later, a woman police officer named Niranjala took Vimalawathi from the cell and recorded her statement but Vimalawathi was neither allowed to see what was written and nor was it explained to her. Vimalawathi said that her ear and cheeks were swollen at that time due to the assault and that they were painful. Then, Vimalawathi was told to sit on a chair while the person and other inmates were put back into the police cell. The person was also later put into the cell.

Later on the same day, both Vimalawathi and the person were produced before the Magistrate, Galle and sent to a prison. Vimalawathi got to know later that she was charged with obstructing police duties. Vimalawathi informed the prison officers of the police assault, and a prison officer took down her statement regarding the incident on the next day.

After Vimalawathi was released on bail from the Magistrate's Court, Galle on September 28, she went with her husband to meet the ASP, Galle and told him this injustice perpetrated on them. The ASP took down their statement and told them that legal action would be taken against PC Chameera attached to the Ahangama Police station. Later the couple went to the HRC branch office in Matara to report this matter. However, an officer refused to accept the complaint stating, "It is strange that they (the police) had only put one case against you. The police can even break a chair and say that you broke it." The officer further said, "In this instance, the police have the right to hit you."

After this incident, Vimalawathi made a written complaint to the HRC, NPC, Attorney General and other authorities. No substantive action was taken following the complaint.

#### **196. Chandrasiri: Police issue threats and intimidations**

In September 2007, Chandrasiri commenced a contract to do the timberwork on a house being built by Kumara Kothalawala and his wife Thanuja, at 95, Senanayake Road, Nawala. Chandrasiri worked with his men until April 11, when he stopped, stating that he will begin work again in three weeks after the New Year holiday. However, before even two weeks had passed after the New Year holiday, Kumar Kothalawala and his wife Thanuja came to Chandrasiri's house and scolded him in a demeaning manner in front of his neighbours. Chandrasiri lodged a complaint regarding this incident at the Panadura Police station.

After this incident, Chandrasiri was called to the Kollupitiya Police station, where the OIC scolded and intimidated him in a demeaning and humiliating manner. Furthermore the OIC threatened Chandrasiri that if he did not finish the work in Kumar Kotalawala's house soon he would be arrested and brought to court. Chandrasiri claims that he was further threatened by an officer named Nandapala.

Frightened, Chandrasiri decided to go back to work on the house of Kumar Kotalawala. While working there, Chandrasiri was continually scolded by the client's wife, Thanuja. Furthermore, KumaraKothalawa tried to assault him. Chandrasiri lodged a complaint with regards to this attempted assault but the Welikada Police had not taken any steps regarding his complaint. Chandrasiri also alleged that Thanuja was stealing timber and complaining that the completed work was not up to standard. He was forced to re-do the work at his own personal expense. Since it was not possible to work under such trying conditions he stopped the work.

At this point, Chandrasiri was again called to the Kollupitiya Police station where the OIC and Nandapala again threatened him that if he did not re-commence the work on the house they would fabricate a case against him and summon him to court. As such, Chandrasiri again started work at Kumar Kotalawala's. However, he stated that he was only going to complete the work already begun and not start any new work. He further requested that his timber and his equipment, which he alleged to have been confiscated by his employer, be returned to him. In addition, a sum of money owed to him by Kumar Kotalawala should be paid. Chandrasiri stopped work on July 12.

On July 16, Chandrasiri went to the Welikada Police and lodged a complaint, asking that his machinery and timber worth about Rs. 20,000 be returned to him. He further asked that the sum owed to him amounting to Rs. 60,000 be paid. The Welikada Police took no steps regarding this complaint. On July 24, the Panadura Police informed Chandrasiri to present himself at the Kollupitiya Police station at 11am on July 26. Chandrasiri did not go because he was worried that they would again harass him. He complained in writing about the incident to several government authorities.

### **197. S. Siripala: Dragged to shed and mercilessly assaulted**

On 8 September 2007, S. Siripala, while he was inside his newly-built house, to which he had not moved yet, was visited by a group of men who removed the grills from his house, smashed goods inside, assaulted him and left. Frightened, he ran away and hid, but he continued to observe his house in case the attackers returned. About 3pm, that same day he went to the Panadura Police station to lodge a complaint. But a policeman therein informed him that his complaint could not be recorded and to go away and come back next morning.

The victim returned to the home in which he had been residing. The next morning, September 9, he went to his new house and he saw a man known as 'Rathu Aiya' (Red Brother) hovering about with a sword-like weapon in his hand. It looked awfully like this man was waiting for the victim. So he

surreptitiously came from behind and grappled for the weapon in Rathu Aiya's hand and assaulted him. He immediately thereafter went to the Panadura Police station, reported the incident and surrendered himself to the police.

The victim says that there was a dispute over land between himself and Rathu Aiya, that is, over the ownership of the land on which he was building his new house. But he had been instructed to build his house by the Panadura Police and this he informed the Panadura Police HQI (Head Quarters Inspector). The HQI had instructed another policeman to 'look into the matter and take down the complaint'. Contrary to instructions however, this policeman did not ask any questions nor write anything down. But the victim was kept waiting at the Police station for more than one hour after which another policeman took him and unceremoniously threw him into a police holding cell until the following day morning, September 10.

On 10 September 2007, about 9am, three policemen visited him and saying that he was to be taken out of the cell, pulled the victim by his shirt collar and smashed his head against the iron bars of the cell. The policemen then escorted him to a shed within the station premises and ordered him to lie down on the floor. Then one policeman hammered him with a wooden pole while another assaulted him with a hosepipe. While this brutal assault was taking place, two or three other policemen came to where the incident was taking place. One policeman said that "this is not the way to hit him" and viciously kicked the victim on his spine with his policeman's boots. The kicking continued for some time, while the victim screamed in pain. He pleaded with them to stop torturing him this way but they only trampled his body and continued kicking and beating him.

The victim says that after the torture, he was unable to stand up on his feet or walk, and he suffered from unbearable pain in his entire body. But the policemen just demanded that he stand up and dragged him to the holding cell. At about 3pm, the victim was taken to 'lodge a complaint'. But instead the police wrote down the complaint and the victim was forced to place his signature on the document.

Later that day, the victim was produced before a magistrate's court but he was unable to obtain bail because his wife (who intended to appear as the surety) had not brought her National ID card. The victim also courageously informed the court that the police had assaulted him, and the magistrate queried whether he could identify those who assaulted him. He replied in the affirmative. The magistrate then ordered him to be warded in hospital. Accordingly the victim was admitted to hospital by prison officials and received medical treatment for his injuries for two days. He told the doctor who examined him about the assault and the JMO who examined him. On

12 September 2007 the victim was discharged from hospital after he was given bail.

On 11 September 2007 the victim's wife via fax complained to the HRC, NPC, IGP and SSP, Panadura about the inhuman police assault on her husband. Later, probably in revenge for complaining, the Panadura Police allegedly fabricated a criminal case against the victim.

On 13 September 2007 the victim's physical condition worsened and he had to be re-admitted to hospital, this time to the Kalubowila Hospital. Again, the victim informed the doctor as well as the JMO who examined him about the police assault and also gave details to the hospital police, who took a statement from him. He was discharged from hospital on the September 14.

Thereafter, the SSP of Panadura requested him to present himself at an inquiry into the incident on 20 September 2007. At the so-called inquiry, the SSP told him to lodge a complaint regarding the damages caused to his house but to omit mentioning the police assault. The policeman recording his complaint reiterated the same advice and recorded a compliant minus details of the police assault. So on 21 September 2007, a written complaint against the SSP of Panadura was made to the HRC, NPC and IGP. In his complaint, the victim requested that these authorities immediately inquire into the incident and take appropriate disciplinary and legal action against:

- (a) The policemen attached to the Panadura Police station for their inhuman and brutal treatment of the victim and also for fabrication of charges;
- (b) The SSP of Panadura for his aforementioned unprofessional and unethical conduct.

#### **198. Manoj Kumara: Panadura South police mishandle case of assault**

On the night of 16 September 2007, eight persons arrived at the residence of Manoj Kumara aboard a three-wheeler and assaulted Manoj and his wife Chandrika. Manoj Kumara and his wife made a complaint about this incident on the same day to the Panadura South Police, identifying two of their assailants, Upali and Ranki, who were residents of Arukgoda village. They could identify other assailants if seen, but whose names they did not know.

The basis for this incident was supposedly a disagreement between Chandrika and Upali's wife in relation to money. Upali's wife made a complaint to the Panadura police about Manoj Kumara and his wife, and the police called both parties for an inquiry and forced Manoj Kumara and his wife to agree to pay a sum of Rs. 1000 every month to Upali's wife at the Police station.

Manoj Kumara alleges that the police called him and his wife Chandrika for an inquiry based on the complaint lodged by Upali's wife while ignoring the complaint that was lodged previously by him with regard to the assault.

At the inquiry Chandrika recognised a certain officer whom she alleges was among their assailants. Upon inquiry, Manoj Kumara came to know that this officer was Home Guard Kulasiri in the service of the Panadura Police.

Manoj Kumara informed the OIC of the Small Complaints Office about the home guard. The OIC then called and questioned Kulasiri stating: "Is it true these people say that you assault them? Now they are going to report you to higher up authority." Home guard Kulasiri immediately denied this fact. The OIC then assured Manoj Kumara and his wife that it was not necessary to take the trouble

to report the matter to higher authorities and that he would look into the matter since Kulasiri was a very junior officer.

Manoj Kumara had then asked the police what action had been taken upon the complaint lodged by them on the assault. The officer informed them that a case had been filed and it has been referred to the Mediation Board. He also informed them that they would receive a letter from the Mediation Board and the case had been fixed on 16 January 2008.

On another occasion when they came to the Panadura Police station to pay the Rs. 1000 to Upali's wife, the latter had asked them why they did not come to the Mediation Board. She also informed them that their letter had been returned stating that there was no such person residing at the given address. Manoj Kumara seeing the letter sent by the Mediation Board in her hand had asked the OIC Small Complaints if it was possible to get a photocopy of the letter. But Upali's wife did not agree to this. She told them to come to the Mediation Board on 15 December 2007. The victim then requested from the OIC a letter to go to the Mediation Board. The OIC had written the number of the case and the date on 15 December 2007 stating that they should go to the Mediation Board at Bandaragama at 9am.

On December 15, when Manoj Kumara went to the Mediation Board, Upali's wife did not come. Manoj Kumara showed the Mediation Board the letter obtained from the OIC Police Panadura. The board then informed him that since the victim had not been present on the earlier date, a certificate of non-settlement had been issued. Manoj Kumara stated that they did not receive the letter from the Mediation Board. The board then stated that it could be that the other party got the letters through an office assistant and hence Manoj Kumara did not receive it. Manoj Kumara then asked for a letter to the police stating the present position. Upon this the Board wrote and gave him a case number recorded unsettled. He then went to the OIC Small Complaints and reported the matter but the OIC said that he was not the one who handles these matters but officer Palitha.

The Panadura Police then filed a case and sent it to the Mediation Board. Manoj Kumara says that the Panadura Police are biased and acting in support of Upali and his wife who allegedly instigated the assault. He also says that Home Guard Kulasiri who was one of their assailants has got together with other persons known to them and is threatening them that he will fabricate a charge of bombs or drugs and send them to prison. He further mentions that upon the influence of Home Guard Kulasiri, the Panadura police are harassing and wasting their time by not properly recording their initial complaint, by indicating wrong dates and case numbers thus subjecting them to great inconveniences.

He reported this incident by written complaint on 20 December 2007 to the HRC, NPC, IGP and SSO in Panadura.

**199. P.A. Kumara Perera: Assault by the Piliyandala police at the instigation of a third party**

The Asian Human Rights Commission (AHRC) has received information regarding the inhuman



and degrading assault of a man by the Piliyandala Police allegedly at the instigation of a third party. According to the victim, when he and his cousin visited the Police station to lodge a complaint, Complaints Division, Officer in Charge (OIC) Damith and another brutally kicked and trampled them. They were then locked up with no reasons given. Later the victim was admitted to hospital and complained to the authorities therein including the Judicial Medical Officer and the hospital police. Subsequently the police allegedly fabricated a criminal case against him - probably in revenge for complaining.

*(Based on the victim's testimony)*

On 19 September 2007 about 7:15pm, the victim P.A. Kumara Perera (21), together with his cousin Danushka and his grandmother visited the Piliyandala Police station in the Colombo District to lodge a complaint against a neighbour - U.D. Sumithra - for harassing them and falsely accusing them of committing crimes. But when the victim reached the Police station, the neighbour was also present.

Upon seeing them, the victim heard Ms. Sumithra pointing at them and telling the police to assault them. Consequently, the Complaints Division, Officer in Charge (OIC), Damith walked up to them and viciously kicked the victim and his cousin. After they fell on the floor he trampled them with his boots. Also, while kicking and trampling the victim, OIC Damith had demanded that the victim shout out the name of his uncle (with whom U.D. Sumithra had had a quarrel with). Both, the victim and his cousin were then locked up in the police holding cell. No reasons were given for their detention. According to the victim, even in the night the OIC had returned and assaulted them.

On the next day, September 20, they were taken out of the holding cell to record their statements. This time, SI Anura joined OIC Damith in assaulting the victim and his cousin on their heads and hands. Then on 21 September 2007 both were produced before court and as there was no one to pose bail on their behalf, they were remanded. At the Kalutara remand prison the victim fell ill due to the police beating and had to be hospitalised in the prison hospital. On 25 September 2007, the victim and cousin were released on bail. That same day about 7:00pm the victim was admitted to the Kalubowila General Hospital for medical treatment for his injuries. There, he fearlessly informed authorities including the Judicial Medical Officer (JMO) who examined him that his injuries were sustained from a police assault.

On 26 September 2007 the hospital police recorded the victim's complaint. According to the victim, probably in revenge for complaining, the Piliyandala Police had fabricated a case (no. 16777) against him. The next court date is fixed for 10 December 2007. The victim says that to date, he suffers pain from the injuries caused by the police assault; there is a pain in his chest and right hand, his right hand is still swollen and has an unhealed wound. The victim has now lodged formal complaints in writing to the relevant authorities including the Chairman, Human Rights Commission of Sri Lanka, Chairman, National Police Commission, Inspector General of Police (IGP) and the Senior Superintendent of Police (SSP) - Mt. Lavinia.

The victim has requested that immediate investigation and inquiry be conducted into the incident and thereafter appropriate disciplinary and legal action be taken against OIC Damith and SI Anura of the Piliyandala Police who assaulted the victim causing serious injuries to him as well as fabricating false charges against him.

#### **200. Priyantha Fernando: “It is only with you we will go”**

Priyantha Fernando (aged 27) is a three-wheeler driver who hires the threewheeler from the owner, Umes Indika, by paying Rs. 250 every day.

On 27 September 2007, Priyantha Fernando was parking the three-wheeler in the parking lot in front of the Moratuwa Police station as he usually does. Suddenly two persons approached him and demanded that they wanted to hire his vehicle to take them to Katubeddha, a few kilometres away. However, he told them he could not accept the hire because he had been hired in advance to drive for the wife of an officer of the Moratuwa Police station named Prasanna.

As Priyantha Fernando told them this they became aggressive and stated that “it is only with you we will go”. Then, one of the persons gripped Priyantha Fernando by the neck and wanted to see his identity card. While the person gripped Priyantha Fernando, the other searched the victim’s hip pocket and took out the paper which had been given to him by the police when his original identification card was lost. They added that “it is you we are looking for” and squeezed his neck and held it tight against the bar of the three wheeler which is behind the drivers’ seat.

According to the victim, he thought that they intended to steal the three-wheeler, and told them that the three-wheeler did not belong to him. At that time, he saw that the owner of the three-wheeler, Umesh Indika, coming towards them. The victim then said, “The owner of the three-wheeler is coming”. Then, the two persons identified themselves as police officers and pushed the victim away. They then caught hold of Umesh Indika, put him inside a van and drove away.

Following the incident the victim went to the Moratuwa Police station to make a complaint but the police refused to accept the complaint. Instead they gave oral messages to deliver to the household of Umesh Indika. It was at the Police station that the victim later came to know that the two persons who had taken Umesh Indika were from the Piliyandala police.

On the next day, September 28, the victim went to the Panadura North Police station with his mother to make a complaint. However, once again the police did not accept the complaint but told them to go to the Moratuwa Police station. When they went to the Moratuwa Police station they were told again to return to the Panadura North Police station. The Officer-in-Charge of the Panadura North Police telephoned to the Piliyandala police and told them to inquire into the incident and asked the victim to go to the Piliyandala Police station.

On September 29, the victim and his mother went to the Piliyandala Police station to again lodge a complaint. According to the victim the Officer-in-Charge of the Piliyandala Police station and the officer in charge of the Crimes Branch of the Police station scolded them in a very low manner,

using foul language against them. They even threatened that three persons had already been killed and that the victim will be next. They then refused to record the victim's complaint. On the same day the victim was admitted to the Kalubowila Hospital for treatment for injuries suffered in the attack. The victim informed to a doctor from the Kalubowila Hospital that he had been assaulted by the police. The doctor diagnosed that the nerve on the left side of his neck had been damaged and that he should wear a plaster case on the neck for about one month. At around 3:30pm on September 30, the victim again went to the Moratuwa Police station but the police denied recording his complaint.

On October 2 the victim reported the incident to Ranjan de Mel, the coordination officer of Minister Jeewan Kumarathunga who lives in Rawatawatte. Ranjan de Mel gave him a letter to present to the SSP in the Mt. Lavinia Police station. This officer read the letter and signed it and asked for the victim to hand it over to the ASP at the Moratuwa Police station. Accordingly the victim met ASP Dayananda and handed over the letter. It was only then that the victim's statement was recorded by a woman police officer and a form to get admitted at the Kalubowila Hospital Police station was given to him. The victim was again admitted to the Kalubowila Hospital. The victim showed the doctor the hospital card and the x-ray which had been given on his first admission on 29 September 2007.

On October 3, the police attached to the hospital recorded a statement from him and on the following day, October 4, the JMO examined the victim. The victim was discharged on that day and asked to attend the clinic to continue his treatment on October 11. As a result of the attack, the victim had difficulty in turning his neck freely and in continuing his job. He also wrote to the HRC, NPC, IGP, and SSP at Mt. Lavinia Police station; however, no investigation had started.

### **201. M.A. Prasantha Ruwan Kumara: brutally assaulted with fists and boots when refusing to pay bribe**

M.A. Prasantha Ruwan Kumara (aged 35), a lance corporal (S/404896) in the Sri Lankan Army, took seven days leave on 3 October 2007 and went home. At about 9pm on 9 October 2007 he visited his friend Nandana's home, consumed a few beers and together with Nandana took his motor bicycle to a garage nearby to attend to a minor bike repair. The victim admits he was neither wearing a helmet nor carrying his motorbike licence with him, in contravention of traffic law, mainly because he only intended to travel the little distance to and from the garage.

On route Kumara and his friend were stopped by five policemen including PCs Amarasiri, Benet and another wearing a badge marked No. 42706, at Atakalampanna Madampe. The police demanded to know why they were without their helmets. Kumara tried to explain that as he was only going to a garage nearby he was not carrying his licence nor wearing a helmet. He says, the policemen then shouted at him in obscene and rude language. He requested them not to insult him as he too was an officer of the state like the police.

One policeman walked up to him and whispered in his ear that if he was willing to pay a small bribe to the policemen, he would be allowed to proceed without any trouble. But Kumara staunchly refused to do any such thing and told them to let him know of their decision. Consequently, another man in civvies came forward and repeated the request. But the victim still refused.

According to Kumara, no sooner had he refused to pay the bribe, policemen Benet, Jayalath and Officer No. 42706 pulled him from his bike, threw him on the road and mercilessly assaulted, kicked and trampled him. The victim, Kumara, requested them to stop assaulting him and repeatedly reminded them that he was an army soldier. But the policemen only retorted that the victim's official duties are limited to his area of duty and that this area was under police jurisdiction, thus the victim was 'under' the police. The victim also says the policemen acted as if intoxicated and he had a strong stench of alcohol. Several people of the area also witnessed the assault while his friend too watched helplessly until the police chased him away.

Subsequently, the policemen confiscated the key of his motorbike and forced the victim into a whitish coloured lorry. They pushed him onto the floor and sat on his body, one policeman even trampling his neck with his boots. The victim was taken a short distance in the lorry, then transferred to a police jeep and taken to the Rakwana Police station where about 11pm he was locked up in a cell. A little while later the police took him to the Rakwana District hospital to ascertain whether he was intoxicated. He was returned to the station and locked up. On the return journey, the victim says, PC Benet repeatedly and savagely assaulted him all over his body.

Again around 12:30pm the victim heard the voices of the policemen who had brought him in demanding: "where is that fellow, take him out". Immediately the cell door was opened and the other inmates of the cell were taken to another place. The policemen walked in and cruelly twisting his arm proceeded to assault him. He remembers PC Benet bending him forward and striking his spine and neck with his elbow. PC Amarasiri kicked him on his back. The others too had attacked him with their fists and boots repeatedly, after which he was locked up again. The police did not afford him any food or drink, whilst in detention. Towards morning when he requested the police to bring him some tea with his own money, they still refused. Neither did they allow him to inform his family about his whereabouts.

At about 8am on 10 October 2007, the victim was taken outside the cell and allowed to sit on a bench. The OIC of the Police station came in a little later and informed the victims' family that he was in police custody. PC Benet then recorded the victim's statement and forced him to sign it without allowing him an opportunity to read it or explaining its contents. About 11am the victim was taken to the Rakwana Magistrate's Court and charged with driving under the influence of liquor and for not wearing a helmet. The victim informed the Magistrate that he was assaulted by the police. He was released on bail and the next court date was fixed for 12 December 2007. That same day, the victim went back to the Rakwana Police station and obtained possession of his motorbicycle and keys.

On October 11, the victim was admitted to ward No 6 at the Ratnapura hospital seeking medical treatment for the injuries sustained from the police assault. He also informed hospital authorities that he was assaulted by the police. On October 13 he was examined by the JMO who he also informed of the police assault. The victim was discharged from hospital on the same day.

The victim complained in writing to the relevant authorities including the HRC, NPC, IGP and DIG-Legal Branch.

## **202. M.I. Fausil Ameen: Prolonged and brutal torture by the Kalutara South police**

On 14 October 2007 about 12:30pm M.I. Fausil Ameen (aged 27) and another man named Gratian were riding a motorcycle when they were stopped for a traffic offence by about eight policemen also on motorbikes. The policemen searched them and had allegedly discovered a gold chain in Gratian's trouser pocket. The two were then taken to the Kalutara South Police station where SI Tennakoon of the Traffic Branch interrogated them and recorded their statement. Thereafter the victim was locked in a police holding cell.

According to Ameen, around 9pm that day OIC Udayanga ordered a policeman named Palitha to escort him to the OIC's office. Then OIC Udayanga instructed him to remove his clothes and accordingly he had removed his vest and T-shirt. OIC Udayanga then took a baton about one-and-a-half feet in length and brutally assaulted the victim several times on his back and neck, pulling the victim's head down in front before each blow. Due to the severity of the assault, the victim says he fell down several times. But each time, the OIC forced him to stand up and continued the assault. After some time, the victim felt faintish and lost count of how many times he was assaulted. Eventually the victim had been dragged back to the holding cell by policeman Palitha who told him to put on his clothes.

But his ordeal was not over. According to the victim, around midnight another policeman visited his cell. The victim was handcuffed and taken down a flight of steps to what looked like a bathing room. Again, OIC Udayanga was present this time accompanied by five other policemen. OIC Udayanga removed the victim's handcuffs, forced him to strip completely naked and lay face upwards, on a bench.

Taking a rope, he then tied the victim's body to the bench and cuffed his feet together. On OIC Udayanga's instructions one policeman fixed a hosepipe to a water tap. The OIC then tied the victim's face and head with his vest and slammed water from the hosepipe onto his face. The victim struggled desperately as he found himself suffocating under the water pressure on his face, nose and mouth. Soon he lost consciousness.

This treatment continued each time he regained consciousness. After a while OIC Udayanga had removed the clothing covering the victim's face and head and inserted the hosepipe into his mouth. Another policeman tightened the victim's lips around the hose while the water tap was opened -

choking the victim and making blood and phlegm spurt out of his nose and mouth. Once again the victim became unconscious. This time when he regained consciousness, he was kicked and assaulted all over his body by the policemen around him.

The police proceeded to yet another stage of torture by filling a shopping bag with petrol and tying it around the victim's head. Again the victim fell unconscious and when he awoke they struck him many times with a cane. Finally the victim was untied and told to wear his clothes. He was handcuffed and dragged out of the Police station from the rear exit. The victim also says that throughout his torture, the police continuously demand he confess to possessing weapons - he did not have.

Outside the station, the victim says he was thrown into a police jeep and driven to a lonely place. He was told to kneel down on the ground and a pistol-like object was forced into his hands. The police then told him to run. But the victim resisted - partly because he was unable to and partly because he was suspicious of the policemen's motives. So they took him to the Kalutara Bridge and told to jump into the river below. Again, the victim had refused. Finally, the police had taken him back to the Police station and he was locked up. According to the victim, he was quite disoriented by then and is unable to say exactly what time all these events took place.

Next morning, October 15, the victim says he was again taken to the bathroom and forced to re-live the terrible ordeal of the previous day. That is, he had been once again stripped and tied to the bench with his feet cuffed. Again his head and face was tied and water from the hose was splashed on his face, choking and suffocating him. Again a shopping bag filled with petrol was tied around his head and face and he fell unconscious. When he regained consciousness, he had been untied from the bench but his hands were still cuffed. This time however, the policemen applied 'Siddhalepa' ointment (a strong balm similar to Chinese Tiger balm) on his wounds as well as his penis and anus. The water hose was once again focused in full force on his body. The pain caused by the ointment and water pressure was unbearable and he had screamed in agony.

Finally after what seemed a never-ending nightmare, his handcuffs were removed and he was told to put his trousers on. But even while he dressed, he was continuously hit and kicked. Again the victim became disoriented and is unable to tell at what time or for how long the torture continued. But he says this time, about six policemen were involved.

The police took the victim to the Crimes Branch office, forced him to sit on the floor and handcuffed him to a table leg. From time to time, OIC Udayanga kicked him. One time, according to the victim, OIC Udayanga brought petrol in a bottle and threw it into his face. His fingerprints were taken and he was then produced in court about 2:30pm. Luckily, his family members had managed to retain a lawyer to appear on his behalf and he was released on bail. However, not a word about the terrible torture inflicted on his person was mentioned in court. That same evening the victim visited the Kalubowila Teaching Hospital and was admitted to the accident service ward. On October 17, he was transferred to Ward 26 of the same hospital and continued to receive medical treatment for the many injuries he had sustained.

The victim complained in writing to all the relevant authorities including the HRC, NPC, IGP, DIG-Legal Branch and the SSP of Kalutara.

**203. Manjula Loganayagam, T.K. Rajkumar: Illegal arrest, detention and degrading treatment of a couple by the Kandana Police** Dear friends, The Asian Human Rights

Commission (AHRC) has received information from a reliable source regarding the illegal arrest and detention of a couple by the Kandana Police who humiliated and harassed them mainly due to racial bias on 26 October 2007. The police visited their house at night and, after searching the premises, took the victims into police custody. No reason for the arrests was given. They were detained at the station until the early hours of the morning and interrogated at length. The police allegedly insulted them for being 'Tamil' and accused the victims of aiding and abetting terrorist activities. They also allegedly threatened to fabricate a case against them.

On 26 October 2007 around 11:45 pm Manjula Loganayagam (36) and her husband T.K. Rajkumar were at home when they heard a three wheel vehicle passing to and fro several times on the road adjoining their house. This made Ms. Loganayagam apprehensive because there had been several thefts in her neighbourhood in recent times. She opened the bedroom window and saw a three wheel vehicle stop in front of her house its driver alighting from the vehicle and looking around searchingly. Ms. Loganayagam inquired from him, what he was looking for.

The man replied that he was from the police and was looking for a person named 'Sivashankar'. Still suspicious, Ms. Loganayagam asked him what Police station he came from and he said, 'Kandana Police'. Soon thereafter a policeman in uniform got down from the vehicle and demanded to know whether the victim was a 'Tamil' or a 'Sinhalese'. She said she was of Tamil ethnicity. He asked what her father's name was to which she replied, that her father was deceased. The policeman barraged her with several other questions which she had patiently answered. The police then demanded to search the premises though no search warrant was produced.

However aware of the enormous powers vested with the police and armed forces under the current emergency regulations including conducting random searches, she helplessly obliged. No sooner the search began the policemen noticed her pet dogs and cats in the house and scolded her for having 'animals running all over the house'. She reminded them that it was she who bore the cost of maintaining her pets and as such they of no trouble to anyone else. The uniformed policeman (who she later discovered was Sub Inspector (SI) Punchibanda) viciously kicked at her dog and demanded to see her and her husband' national identity cards.

The documents were handed over but not satisfied the policeman demanded their birth certificates, other documents and also questioned her husband. At this point, Ms. Loganayagam asked for the policeman's identification, but he replied her with an insult. An argument had ensued after which a policeman in civvies (she later discovered he was Police Constable (PC) Jayasinghe) threatened to arrest them and take them to the Police station. Immediately SI Punchibanda telephoned the Officer in Charge (OIC) of the Kandana Police station and saying the couple 'looked suspicious', obtained

permission to take them into custody. According to the victims by this time, the police had searched the entire house and premises but did not find anything suspicious. But the policemen went to the top floor of the house and PC Jayasinghe pointed to the Shell Gas Company situated nearby. A little while later a police jeep arrived.

The victims were taken to the Kandana Police station and produced before the OIC. SI Punchibanda alleged, the Shell Gas Company could be targeted from the victims' house. Then he showed the victims' ID cards to the OIC who asked Ms. Loganayagam who the man (her husband) was. She replied, "husband", but SI Punchibanda accused her of not mentioning this fact before and also accused her of maintaining an illicit relationship with a man she now claimed to be her husband. According to the victims, the police also accused them of:

Providing information (to terrorists) to attack the Shell Gas Company; Building their house, to enable a mortar attack on the gas company; Using a fraudulent assessment number for their house; Maintaining a brothel at their house—as the house contained more than three rooms, and; Having a house full of dogs so as to discourage people from entering it. The victims were then taken to the crimes branch of the police station and interrogated at length. PC Jayasinghe threatened to file cases against them; he shouted that it was because of 'Tamils' like the victims that the police were overworked and could not get any sleep at night.

He also instructed a Woman Police Constable (WPC) to record Ms. Loganayagam's details including (but not limited to) value of their house, details of her work place, parents and other family members, private money transactions, date of marriage, and how and when she met her husband. The victim says she refused to answer questions that were of a personal and confidential nature. Meanwhile PC Jayasinghe took it upon himself to record the statement of Mr. Rajkumar but he purposefully delayed in doing so until about 3:45 am. Then as Mr. Rajkumar was not fluent in the Sinhala language, Ms. Loganayagam was told to interpret to him. But even while recording the statement the scolding and insulting of the victims continued.

Finally done, PC Jayasinghe proclaimed he did not believe a word they said and accused them of spinning yarns (*baila gahanawa*). He also threatened to lock them up until the next day when he would fabricate a case against them and haul them up in court. Eventually the victims were ordered to sign their statements and go home. As a parting shot, PC Jayasinghe had allegedly boasted that he was from Police Intelligence and had filed many cases against Tamil people like the victims. He also accused Ms. Loganayagam of being 'snobbish' and said that women like her were a 'problem to the nation'.

He said it was her 'uppity attitude' that prompted him to bring the victims to the police station -- meaning, that this was to punish her for not affording due reverence to him rather than because there was a reasonable suspicion that the victims has committed an offence. The ordeal over, Ms. Loganayagam has now complained in writing to the authorities concerned about the illegal arrest, detention, humiliation, harassment and racial bias by the Kandana Police. She has requested that



prompt and thorough investigations are conducted into the incident and legal and disciplinary action be taken against the policemen who behaved in such a shameful and disgraceful manner.

#### **204. Dorairaj Jayachandran: Brutally assaulted with a copper cable**

On 31 October 2007, Dorairaj Jayachandran (aged 28) together with V. Velamuni, J. Jeyaraj and another, all casual labourers, went in a lorry to collect scrap iron as usual. Around 2pm they returned to handover the collected scrap iron to a shop belonging to one 'Lasantha' along Agalawatte Road, in Matugama. While they were unloading the scrap iron from the lorry, crimes branch, OIC, Chaminda and three other policemen from the Dodangoda Police walked up to them. Only one policeman was in uniform. Without much ado and with no reason afforded, the policemen pushed the victim and his colleagues into a van and took them to the Dodangoda Police station. En route, the victim and the others were questioned about 'cutting electrical wires' at Malabadawatte. The men denied any knowledge the incident.

Upon reaching the Police station, Crimes OIC, Chaminda escorted the victim and his friends to a new but unused building within the premises of the Police station. The victim was taken to a separate room. OIC Chaminda closed the door and immediately began assaulting the victim with a copper cable all over his body in an inhuman manner. OIC Chaminda stamped on the victim's feet and toes with his boots, injuring the victim's left toe. Thereafter, the men were taken to another building where Velamuni was taken inside a room and assaulted.

OIC Chaminda recorded their statements and told J. Jeyaraj and the lorry driver to leave. The victim was handcuffed together with Velumuni and ordered to sit on a bench until the following day. They could not rest and were not offered any food or water. On 1 November 2007, about 10am the victim and Velumuni were taken into separate rooms and their statements recorded. According to the victim, even while his statement was recorded, OIC Chaminda repeatedly assaulted him with the copper cable causing him serious bodily injuries. The victim was then forced to sign the statement; he was not shown its contents, neither was the statement read and explained to him. About 11am the victim and Velumuni were charged with cutting electrical wires and produced before the Magistrate of Matugama where they were released on bail.

Soon thereafter, the victim and Velumuni visited the Nagoda Hospital and were admitted to ward no 11 for medical treatment for injuries caused by the police assault. The victim told the doctors about the police assault and made a complaint to the hospital police. On 6 November 2007, he was examined by the JMO to whom he also complained. He was discharged from hospital the same day while Velumuni continued to be in hospital. On November 2, the victim's father complained to the HRC via fax.

Subsequently, the victim also complained in writing to the HRC, NPC, IGP, DIG-Legal, and Matugama SSP.

### **205. S.K.A.S. Nishanta Fernando: “We are taking you to the beach to kill you”**

On 12 November 2007, a police squad arrived in jeeps, motorcycles and three-wheelers and surrounded the house of Fernando. They assaulted him with fists, kicked when he fell down on the floor and trampled him until he fell unconscious. They also hit his wife with a pistol on her forehead and trampled her even after she fell to the floor. They slapped their young daughter, Dilukshi, and hit her head. One police officer tried to remove her blouse, despite her struggle against this. She was dragged to the police jeep and one officer tried again to lift her blouse. When she screamed, she was beaten. She shouted from the window asking someone to go and inform the grandmother. When she inquired where they were being taken, a police officer replied, ‘We are taking you to the beach to kill you.’ The young son, Anjana, was dragged to a wall and struck about the head, face and stomach. Due to this mistreatment he lost part of a tooth and his lip was split.

When Fernando regained consciousness, only when he was inside the Crime Division of the Negombo Police station and water had been thrown over him. One police officer was shouting that this fellow had to be killed and that the SSP has said to do this. He was dragged out of the room and overheard an officer speaking over the phone to someone. “Sir, that is the thing that I am writing now. This fellow who is half dead now is in front of me.” Later, after their release all members of the family sought medical treatment and the medical reports confirmed their injuries. In an application made to the Colombo High Court in the bribery case, the High Court judge cancelled the bail granted to the police officer who was the accused in this case.

### **206. Muthukumar Ravikumar and his wife Stella Rani: Alleged torture and prolonged detention of a couple**

The Asian Human Rights Commission (AHRC) has received information that officers attached to the Dehiwela Police station arrested a couple on 21 November 2007 who were allegedly tortured by the police and later again tortured by the Terrorist Investigation Division. Since then, the couple has been detained in Colombo Remand Prison. No reason was given for their detention and no investigation has been conducted into the allegations of torture during their interrogations.

*(Based on the information given by the victims Muthukumar Ravikumar and his wife Stella Rani)*

Ravikumar lived in and worked in Colombo. On 12 November 2007, he and his wife were arrested for no reason. His wife was 5 months pregnant at the time. When they were taken to the Dehiwela Police station, police allegedly bound him from his neck to his feet with a cable. He was assaulted with a cricket stump and hung from the ceiling while being beaten. His wife was transferred to police headquarters by four male police officers where she was allegedly subjected to sexual harassment and beaten with a wire.

On 22 November 2007, the couple was handed over to the Terrorist Investigation Division (TID) for interrogation. Officers from the TID again allegedly tortured Ravikumar by hanging him from a

beam. They also placed a book on his head and hammered his head with a cricket stump while rolls of paper were inserted in his ears. They also beat his feet and injected petrol into his feet until they were numb. They reportedly drove a ball point pen into his ears. His ears bled for several days. Ravikumar was handed over to the Navy for further investigation on 2 January 2008 . Naval officers continued to torture him by pulling out his beard and assaulting him. Thereafter he was taken to sea by a boat along with a few others and tortured. According to him, one person named Muhanthan was stabbed and thrown into the sea. Ravikumar was beaten until he lost consciousness.

On January 3, when he regained consciousness, he was in a hospital. His shirt was soaked with blood and he was bleeding from his nose, ears and mouth. He was discharged on January 9 (his admission card number is 231337 and his name was incorrectly written as Shashikumar instead of Ravikumar). He continued to be detained by the TID until he was remanded on August 15 to Colombo Remand Prison.

His wife was shifted briefly to the Colombo Remand Prison in June 2007 for child birth. She gave birth to a daughter and both of them are still in the Remand prison. The whole family imprisoned from 2007 until the present, is produced in court in the Welikada Prison every two weeks. However, no charges have been lodged against them even though two years have passed. Ravikumar is registered with the Red Cross: ICRC 124967 & 125767

#### BACKGROUND INFORMATION:

Ravikumar was earlier arrested in Colombo on 13 July 2007. He was arrested by the CCD (Colombo Crime Division) Dematagoda Branch. He was released by the Mount-Lavinia Court on the 22 August 2007. During this time, he was also assaulted while in custody.

Ravikumar believes that he and his wife were targeted because they refused to give money to the Karuna group which was broken up by the Liberation Tigers of Tamil Eelam and information about them was given to the police.

#### **207. Ven. Dodangoda Ariyadamma: Police allegedly assault and fabricate charges against three men for refusing to pay bribe**

One Buddhist organisation, the Sambodhi Vihara Samitiya located at No 106, Wijerama Mawatha Colombo 07, releases cattle condemned to slaughter and gives them freely to villagers and homes. According to the local custom it is a great meritorious act to release cattle that are condemned to slaughter upon a money payment. Usually these cattle are given to temples and individuals who will look after them. The cattle released by the organisation are transported with a letter requesting

permission for such transport written on the organisation's letterhead in place of the relevant legal permit required for the purpose.

On November 24, 2007, Ven. Dodangoda Ariyadamma head priest of the Bodhirajarama Viharasthana in Anuradhapura, who had been working with this group for the last two years, obtained twenty five cattle from the organisation to be distributed among villagers along with the letters requesting permission for such transport.

The letters were signed by the Rev. Dharagama Kusaladamma Thero the head priest of the SambodhiVihara. He had earlier transferred 40 cattle to the Mihintale police and 15 cattle to the Kahatagagiliyapolice to distribute the cattle amongst the people of those areas, which he had obtained from the ColomboSambodhi Vihara.

This time, out of the 25 cattle obtained that day by the Ven. Dodangoda Ariyadamma, 15 cattle were given to Peter Lenus and H.M. Dharmadasa to be distributed among the villages. Peter Lenus and H.M. Dharmadasa transported their fifteen cattle in a lorry bearing license No. 226-5226.

At around 2:30am on November 25 when they reached the village Angomugama, they did not have room in their properties to keep the cattle. They then knocked on the door of Nuhulebbege Mohomaddu Padil, known as Angamuvegama Padilige, and asked his permission to tie the cattle in his property till the next day. Peter Lenus and H.M. Dharmadasa said that they were acting in accordance to the instructions of the Ven. Dodangoda Ariyadamma.

At 3am on the same day, some four officers from the Galgamuwa police came in a jeep to the house of Angamuvegama Padilige with the driver of the lorry and another person whom Dharmadasa and PeterLenus came with. The police inquired after the cattle. Angamuvegama Padilige told them how the cattlegame to be in his property and then phoned and told Dharmadasa that the police were inquiring aboutthe cattle. After a while Dharmadasa and Peter Lenus came to his house. The police sent the lorry driverand other person to bring the lorry to the Angamuvegama Padilige's property and got them to pack thecattle back into the lorry.

The police then assaulted Peter Lenus, H.M. Dharmadasa and Angamuvegama Padiligemany times with their hands and feet while accusing them of having brought the cattle to make theminto meat (slaughter). After this assault, the police took by jeep Peter Lenus, H.M. Dharmadasa, Angamuvegama Padilige to the Galgamuwa Police station. They also took the lorry containing the 15 cattlento custody and got the victims to let out and tie the cattle in the police property.

At the Police station, the police asked Angamuvegama Padalige to pay a bribe of Rs. 50,000 to be set free. After negotiation, he paid Rs. 20,000 and the police released him. However, Peter Lenus and H.M. Dharmadasa were put into the police cell. Angamuvegama Padalige does not want to reveal this fact due to fear of his life.

Upon being informed of the incident, Ven. Dodangoda Ariyadamma went to the Police station to clarify this matter at 6am on November 25. However, he was taken into custody and put into the cell. When he was explaining, he told that the other 10 cattle obtained from the Sambodhi Vihara Samithiya on the same day were grazing in his temple property, Bodhirajarama Viharasthana in Anuradhapura. As the police heard this, they went to the temple at 5pm on that evening and brought the cattle to the Police station.

While he was in the cell, SI of police Chandrasiri solicited a bribe of Rs. 50,000 to be set free, which he refused. In the afternoon on November 26, the police showed a statement and forced him to sign it of which Ven. Dodangoda Ariyadamma did not know the contents. The police also got a signature from Peter Lenus and H.M. Dharmadasa on the statements, the contents of which were not revealed to them. At 3pm on that day, three of them were produced before the Galgamuwa Magistrates and they were remanded till 6 December 2007 and released on bail.

#### **208. Ajith Kumara: Alleged torture and laying false charges against family members by Kolonne police**

On 16 December 2007, at about 8:30am two police officers, Udaya Kumara and Premalal in civilian dress from the Kolonne Police station came looking for Ajith Kumara at his parent's house, saying that there is a warrant issued for his arrest. When they were told that he was in the bathroom taking a wash, they went into the house and dragged him out of the bathroom naked. They allegedly assaulted him with a pole and then forced him to the floor where they trampled his naked body including his sexual organs.

Ajith Kumara's mother, W.H. Rosalin (aged 67), his father who was bedridden and his sister, Ramyalatha were in the house at that time. While Ajith Kumara was being beaten, Rosalin and Ramyalatha came forward to stop the police officers assaulting him. However, his mother was also assaulted and fainted. Ramyalatha managed to snatch the pole from one officer. In the ensuing confusion Ajith Kumara ran from the premises. The police then also left leaving behind the mother, unconscious on the floor.

Meanwhile Seemawathi, another sister of Ajith Kumara, came to the house to attend to her sick father. She saw her mother fallen on the floor and after failing to revive her, took her by a three wheeler to the Kolonne hospital. On the way to the hospital, four officers arrived on motor cycles and threatened them not to take the mother to the hospital. However, Seemawathi ignored them and carried on to the hospital. When Seemawathi returned home, she found that Ramyalatha (her sister) and her young child had been taken to the Police station.

In the afternoon, Ajith Kumara and Chanaka Thusitha Perera (Seemawathi's son) were stopped at an army check point when they were found riding a motor cycle. The army officers after examining their bags and identity cards had informed the police that they had found Ajith Kumara. Soon after, eight police officers from the Kolonne Police station came and arrested them. Once again the police

assaulted them by forcing them to the floor and trampling them. At that point, the army officers warned the police officers “Not to assault them like assaulting dogs”. The police then took them to the Kolonne Police station. The police again assaulted Ajith Kumara until he lost consciousness at the Kolonne Police station. Ramayalatha and her child who were also in a cell witnessed this incident. Ramyalatha shouted from the cell not to assault her brother in such a cruel manner.

In the morning on December 17, Ajith Kumara’s wife, Ayesha Tharangani (who was 6 month’s pregnant) went to see Ajith Kumara in the Police station. Inside the Police station, Ramyalatha told her that her brother had been assaulted in a most vicious manner and had been taken to the Kolonne hospital the previous night. Ramyalatha told her to go to the hospital to see if her husband was still alive as he had been assaulted so badly. Ayesha Tharangani went to the hospital but the police would not allow her to see her husband. Later she came to learn that her husband had been transferred on the same day to the Embilipitiya Hospital.

On the same day, Ramyalatha and Chanaka Thusitha Perera were produced before Embilipitiya Magistrate’s Court and remanded. Rosalin (the mother) had been transferred from the Kolonne Hospital to the Embilipitiya Hospital. After that, whenever the family went to visit Rosalin, the police officers threatened and tried to force them to get her discharged from the hospital. Later the family learned that she had been arrested from the hospital and sent to the prison.

When the family visited Ajith Kumara in the Embilipitiya Hospital, he was very sick and told them that the police officers had assaulted him very badly. Ajith Kumara, Rosalin (his mother) and Ramayalatha (his sister) were transferred to the Tangalle prison. The family got to know later that all three with Chanaka Thusitha Perera were charged with possession of firearms, assaulting the police and obstructing the official duties of the police officers.

On December 24, Seemawathi reported this incident by a written complaint to the HRC, NPC, IGP and Police Headquarters. She also submitted her complaint to the DIG-Legal and SSP, Ratnapura.

On 17 January 2008, the police officer Udaya Kumara who assaulted Ajith Kumara in the house threatened and scolded the family while they were in the premises of the Embilipitiya Magistrate’s Court for complaining. The OIC of the Kolonne Police station also threatened the family in the premises of the court, on January 31 in the presence of the family including Ayesha Tharangani (Ajith Kumara’s wife), Seemawathi (his elder sister) and her husband and Siriyalatha (Seemawathi’s sister). Also present were the lawyer of the family, Kulasuriya and bystanders who had come to the court on that day.

According to Ramyalatha and Ayesha Tharangani, the OIC threatened them saying that, “if these two men are freed, we will get them shot and killed. We will get their houses burned down. Otherwise, we will get a villager to stab them to death with a knife. Only one bottle of arrack and a sharp knife is necessary. When this incident happened I was on holiday. I came after four days. I telephoned and told them to shoot all four of them. I have marked their houses. So go anywhere and make complaints.”

Ajith Kumara was then sent to receive treatment at the Ratnapura Hospital under the custody of the Kuruwita prison officials while Rosalin (his mother) and Ramyalatha (his sister) were in the Kuruwita prison. Chanaka Thusitha Perera was released on bail on January 31.

Seemawathi complained of this situation to the HRC, NPC, Attorney General, IGP, and police headquarters on February 5. On February 6, Ayesha Tharangani also complained. Rosalin and Ramyalatha were released on bail on February 21 and Ajith Kumara was remanded in Kuruwita prison. No investigations had been taken by any government authorities with regard to the alleged torture of this man and the fabrication of charges against his family members.

### **209. (Name withheld): Raped by police**

On 17 December 2007, a 17-year-old “Y” (name withheld for security reason) suffered a chest pain while she was working in “Ceramic World” Biyagama. Her employer arranged medical treatment for her and after getting permission from her supervisor, she left at about 7pm. While she was walking towards the boarding house, she noticed that someone was following her. She looked back and saw four men following her; she attempted to run but three of the men caught her while the fourth pressed a white coloured handkerchief soaked with an unknown substance over her nose. Before she lost consciousness she heard a vehicle stopping nearby.

When she regained consciousness she was lying on a bed in a room. She saw the Deputy Chairman Pradeshiya Sabaha (Provincial Council) Weligepola and his friend both of whom she named in her affidavit sitting at the end of the same bed drinking alcohol. She was still dressed in all her clothes and as she tried to open the door and escape they caught her and threw her back on the bed. She lost consciousness again and could not remember what happened after that. When she regained consciousness she found that she was lying on the bed with a sheet thrown over her naked body. The Deputy Chairman was there and he was half naked. Y then saw her clothes on the bed and started to get dressed while crying and asking the man “Why did you do this to me?” In answer the Deputy Chairman broke an empty arrack bottle and held it to her neck saying “If you dare to tell anyone about this incident I will kill you and every one in your family.” The victim was terrified and pleaded with him to let her go and return her to the boarding house. Then, the Deputy Chairman ignored her plea and again threatened her.

At 7am on December 18, the Deputy Chairman took her out of the room after covering her face so that no one would be able to recognize her. He took her to his friend’s three-wheeler. On her way out she noticed a board with the word ‘Guest House’ written in English. They dropped the victim at the cross road near her boarding house, threatening her for a third time that “If she reports the incident to anyone that they will kill her and everyone in her family”. The victim went to her boarding house. She did not tell anyone of the incident because of the death threats made by the Deputy Chairman.

On December 18, the victim's mother came to see her and finding her looking very sick asked her to take medicine. The victim had then told her that she preferred not to do so since medication made her even more uncomfortable. She managed to work for two days but asked for one week's leave due to ill health on December 21 with the intention that she would not return to work during that time. However, since she had not paid her boarding fees she had to return to the boarding house on 29 December. The matron was not there and she had to wait till 31 December to pay her boarding fees and return home.

On 13 January 2008, the victim's mother was asked to meet her sister and her husband P.K. Premadasa who advised her not to let Y live in the village but to take her and go lest great harm would befall her. When the victim's mother demanded to know the reason for this they refused to tell her but repeated that she should take the girl and leave the village. When the victim's mother returned home she asked her daughter what all these statements meant. She then broke down crying and told her mother everything that had happened. The victim's mother then phoned police emergency number 119, and made a complaint regarding the incident and left the village with her daughter on January 14.

A little while later the mother's sister informed her by phone that the police had arrived. The police officer, speaking on the same phone advised her to go to the Godakawela Police station and make a complaint about the incident. The victim and her mother took a bus to the Godakawela Police station but while on the way the victim received a mobile phone call in which she was threatened that if she so much as opened her mouth to say anything against the Deputy Chairman, she would be killed.

At 10pm they reached the Police station. However, the OIC Crimes Branch, Godakawela, told them that since the crime had been committed in Biyagama that they should make a complaint at the Biyagama Police station. The victim's mother also informed him that her daughter received a death threat on her mobile phone on their way to the Police station and gave him the number of the incoming call as registered on the phone. Even though the Godakawela Police refused to record the complaint, due to the mother's insistence a female officer was instructed to record the complaint at about 11pm. The mother was not allowed to come near her while the complaint was recorded. The victim was told to sign the complaint but was not allowed to see what was written. Neither were they given the serial number of the complaint even though they requested it. After the complaint, the female officer and two other officers took the victim to be admitted to the Godakawela District Hospital.

The victim was warded and given medical treatment. While she was warded, a friend of the Deputy Chairman came to the hospital and suggested that they would settle the matter saying that "we are all people of the same village". However, the victim's mother did not accept any settlement. The victim was transferred to the Ratnapura General Hospital by the hospital ambulance on January 16. During the hospital visiting hours in the afternoon, an unknown young man came in to the ward and having asked who the victim was and told her that the Deputy Chairman had come and is waiting near the gate and to go and meet him. However, when the victim told this to her mother, the mother held



the young man by hand and wanted to know more information which he did not provide but simply went away. On January 17, a JMO declared that the victim had been raped and mentioned that if expert evidence was needed in court to forward the documentation provided.

On January 18 when the victim's father was returning home after visiting her in hospital two persons known to be friends of the Deputy Chairman and five others blocked his way and tried to assault him with a bottle. However, he managed to evade the assault. On January 19, the victim was discharged from the hospital with referrals to medical clinics. During this period the Biyagama Police sent a message to the victim's mother to come with the victim and lodge a complaint at the Biyagama Police station. The victim's mother went to the Police station on the same day and informed them that a complaint had been taken down in the Godakawela Police station. She gave the two complaint numbers which she had managed to get from them as G.CIB.288/61 and MCEN.22/08.

When she asked for the complaint number from the Biyagama Police station she was informed that the investigation would be conducted under the same complaint made to the Godakawela Police and therefore it would be registered under the same number.

Subsequently, a police officer accompanied the victim and her mother in a vehicle so that she could identify the Guest House to which she was taken. After visiting five guest Houses, Y recognized the fifth Guest House, the Kalani Nadi Guest House, as the place where she had been held and raped. The police had thereafter searched the premises. They also looked into the Guest Information Book and found that the name and identity card number of the Deputy Chairman Pradeshiya Sabaha Weligepola entered as a guest who had stayed the night on 17 December 2007. The police then searched the room recorded as the one occupied the Deputy Chairman and took into custody the bed linen (which had since been washed) and the Hotel Guest Information Book.

The police also questioned the waiter who had been in service on the 17 December. The waiter recognized the victim. Then the police took the waiter to the Police station in order to get his statement, after which he was released. The Biyagama police then having taken the contact phone numbers of the victim's household told them that they would contact them when the need arises. The victim and her mother left for home. Since the Biyagama police had not contacted the victim, the victim's mother phoned them and was told that the investigation was in progress. She was also asked if she could provide a vehicle so the police could arrest the Deputy Chairman, to which she replied that she did not have the money.

On January 28 when the victim's father was in the garden he noticed three strangers on the road opposite the house carrying that which appeared like iron bars. The victim's father had quietly evaded them. In this regard, the victim's father made a complaint at the Godakawela Police station. Since this incident, the victim's family members moved from the village for their protection and safety.

According to the victim, after she was abducted and raped the perpetrators still live as free men, the police have not notified them of any further action taken on the crime, and it was only through a

friend of the victim's mother that they had got to know that a case had been filed in the Magistrate's Court, Gampaha. According to this information the victim's mother had gone on February 13 to the court but when the case was called, she was not allowed to come forward and was chased away by the Biyagama Police and the lawyer of the accused.

The victim and her mother made written complaints of the incident to the IGP, DIG-Legal, SSPs in Colombo and Ratnapura, NPC, HRC, Child Rights Authority and Women and Children's Bureau. Furthermore, the victim's family got to know that the suspect applied for anticipatory bail on 19 March 2008. After learning of this, the victim set out all details of the incident in an affidavit and handed it over to the Magistrate of Gampaha.

**210. Michael Edward UPDATE: Kandy police are threatening a torture victim to leave the area** Dear Friends, The Asian Human Rights Commission (AHRC) has received information that Kandy police have been threatening a man to leave the area when he returned to Kandy in 2007 since last September. The man was a torture victim and released from the prison due to lots of intervention in 2000. After his return to Kandy from Jaffna, it is reported that the police again tried to accuse him of terrorism and questioning him and his family either in work place or house without any evidence. It is alleged that the police are constantly threatening him to leave the area with his children.

*(Based on the testimony from Michael Edward)*

The Criminal Investigation Division (CID) of Kandy branch arrested Edward Michael as a terrorist suspect on 21 May 1998 and kept him in Thalathuoya police custody until the police produced him before the Magistrate on 9 October 1998. While he was kept in, he was allegedly tortured and the AHRC issued an Urgent Appeal (UA 17/00) on 24 March 2000. Due to lost of interventions, he was finally released from the prison on 2 May 2000 (RE: UA 17/00). The family of Michael Edward had stayed in Heerassagala Kandy until 2005 and shifted to Jaffna.

However as the situation of Jaffna was deteriorating, they returned to Kandy in 2007. They lived in a rented house in Heerassagala Kandy for 7 months. With the help of their relatives they bought a house in Tankiya watte, Kandy on 26 July 2007 and Edward Michael started working at Mallika studio. According to the information received, when his family was at Heerassagala, the Kandy police officers had threatened his family and now, they are threatening almost everyday at his work place which is located opposite to the Kandy Police station.

The police accused him and his family of being terrorists without any evidence. On September 1, a Kandy police called him and his wife and asked them to give all details of the family members including their passports. From then onwards the police constable regularly visited their house. At around 12 noon on November 24, a CID officer and a police officer visited his house and questioned why they bought the house and why he was employed there and again called them to the Police station on November 25. When Edward and his wife went on the following day, the police officers were not present.

When Edward went to the Police station again the same evening, the police officers threatened him of arrest and again took details of the family. Once again, the police asked him to bring his case file regarding his arrest on 1998 and bank details on November 26 to the Kandy police. Edward went to Kandy police on the next day, November 27 and showed the case file and the bank book. However the police officers have threatened and asked his family to leave Kandy. Due to continuing threat, Edward left the job but he could not find another job so he started working again from December 6 at the same place where he used to work.

According to Edward, he recognized one police officer, Sergeant Weerasinghe, and those police are from intelligence unit from Kandy police. Michael Edward has six children. Five of them are at home and two children are still studying. He fears of his arrest at any time and another torture as Edward had earlier experienced. His family cannot either go to Jaffna or live in Kandy.

### **211. Sugath Rohana: Assaulted due to private quarrel with police**

At around 9pm on 29 December 2007, Sugath Rohana, was returning home from work. He consumed a beer at a restaurant and stopped at a shop to buy something to eat. Inside the shop, Sugath Rohana saw Manikka, a police officer, in the company of another police officer from the Tissamaharama Police station.

According to the information received, on a previous occasion, Manikka had asked Sugath Rohana to lend him his motorcycle for personal reasons. Sugath Rohana refused this favour, saying that the motorcycle belonged to his employer's company. Then Manikka threatened him by saying, "Is that so? The day will come when you will need us!" Manikka showed his displeasure at that time and later on the occasions when they met on the road.

On December 29, seeing Sugath Rohana enter the shop, officer Manikka came out and called him to one side and asked if he was drunk. Sugath Rohana replied that he had only consumed beer. Officer Manikka stated, "That is enough for us". Sugath requested the officer not to bother him as he had done no wrong and that he was on his way home. Officer Manikka then slapped him on the cheek, saying "We will see about that". Sugath Rohana pleaded with the officer not to hit him as he had done no wrong. Manikka taunted him and repeated the word "wrong... wrong..." and again slapped him brutally across his cheek.

Another police stepped in and said, "Your mouth is too big", and struck him severely on his head with the T-56 rifle he was carrying. He then made a call on his mobile phone and asked for a police jeep to be dispatched, stating that their officers were being assaulted. Sugath Rohana asked officer Manikka why he was being treated like a criminal, and in response the officer said sarcastically, "Look, now he is trying to teach us the law."

The police jeep then arrived with more officers who also started to assault Sugath Rohana. He was unable to recognise the officers who assaulted him or their numbers in the group, because at that

time he began to feel faint and his vision became blurred due to his head injuries from the assault. His head was bleeding and his T-shirt was soaked in blood.

At that time, Sugath Rohana's sister, Ayanthika, came to the scene. However, she was also scolded by the police. Shortly, officer Chandimal of the same Police station came to the scene on his motorcycle. He scolded Ayanthika with foul language and attempted to assault her, at which point Ayanthika became frightened and ran away. Officer Chandimal then assaulted Sugath Rohana who fell unconscious. The victim was taken to the Debarawewa hospital. Officer Manikka, Chandimal and some other officers were around the victim's bed when he regained consciousness.

Allegedly, officer Manikka had deceitfully reported to other parties, including the doctor in the hospital, that Sugath Rohana had intended to purchase illegal drugs and while drunk had fallen from the bike and injured himself. Upon hearing this false report, Sugath Rohana shouted out that he did not use drugs, and that this was a gross injustice as he had been assaulted by the police. He also stated to the doctor that his purse and mobile phone were missing. Officer Manikka then produced both these items. The doctor then asked the police that brought in Sugath Rohana, if he had any injuries. Officer Manikka stated that the victim did not have serious injuries, as he had only fallen off his bike. The victim objected again to the false statement and added that he had a severe headache. However, officer Manikka was able to have him discharged from hospital and brought him to the Tissamaharama Police station where he was placed in a cell. He was also not given any food or drink that night. Sugath Rohana is unable to state at what time he was taken to the Police station.

On December 30, officer Manikka took Sugath Rohana out of the cell and announced loudly, "This is the guy who came to assault the police", and took him to a table to record his name and workplace. Sugath Rohana was not shown what else was recorded but was forced to sign the book. Officer Manikka then threatened to have him imprisoned for two years. Another officer suggested cancelling his driver's license so that he would be out of a job. The victim was then returned to his cell. Sugath Rohana was still not given any food or drink that morning. While Sugath Rohana was in his cell, officer Chandimal came to the cell and showed him a packet of drugs, stating that this was the evidence they would use to have him imprisoned for two years.

Later, officer Manikka came and took Sugath Rohana to another cell and told him to remove his T-shirt, asking if his family brought him another shirt as he could not be produced in court in such a state. Subsequently, when Sugath Rohana's brother-in-law, Anil Priyantha, came to see him, he asked him to bring another shirt so he could be produced in court. Anil Priyantha then did so.

At around 12:30 on the same day, Sugath Rohana was produced in Tissamaharama court under the allegedly fabricated charges and remanded. He later came to know that the fabricated charges against him were possession of illegal substances (drugs) and driving his motorcycle under the influence of alcohol. On 1 January 2008, Sugath Rohana was produced in the Tissamaharama court and received bail. On January 2, due to the discomfort and pain in his body, Sugath Rohana sought treatment from a private doctor. However, due to the severity of his injuries, he was admitted to the Hambantota General Hospital for further treatment. The victim informed the doctor who examined

him, and the JMO, that he had been tortured by the police. Sugath Rohana was warded and received medical treatment until January 8. He was advised to continue treatment with a specialist. The victim continues to suffer from severe headaches, dizziness and fainting spells, due to the assault on him by the police.

Sugath Rohana made a written complaint to the HRC, NPC, IGP, Attorney General, DIG Legal, DIG Southern and SSP Hambantota.

## 2008

### **212. Mohamad Maharooof Mohamad Pasmı: Police allegedly assault and fabricate charges against two men**

On 5 January 2008, Mohamad Maharooof Mohamad Pasmı, a driver, drove his van with five passengers toward Galle from Tangalla. When he arrived at the main bus stand of Galle at about 3:30am, the passengers went to a mosque to pray and Mohamad Pasmı went to drink tea at a hotel nearby with Mohamad Riyaf. According to the information received, while they were drinking tea, three police officers in civil dress from Ahangama Police called Mohamad Pasmı and asked whether he is a van driver.

When Mohamad Pasmı came out, one officer had grabbed his T-shirt and took him near the police jeep. The officer questioned him about a lorry that had transported some cattle. When Pasmı said he did not know anything, the officer hit him on the left side of his face, which broke a tooth in his upper jaw. Then, the officers hit Mohamad Riyaf too. They pushed them into the police jeep and wandered from place to place in Galle town. When they saw cow dung in the clothes of two persons near the Navy camp, they forcibly took them too in the jeep.

After being questioned, the two men showed the police a place where the cows were being kept. Then the police officers told them that they needed diesel for the jeep and ordered them to bring a can of diesel and power oil. Within a few minutes after receiving the diesel and oil the police released the two persons. The police took Mohamad Pasmı and Mohamad Riyaf to Galle Harbour police and kept them for two hours before transferring to Ahangama Police station.

On January 6, the next day, they were taken to the official residence of the Magistrate and charged with robbery and unlawful transport of cattle and produced before Galle magistrate's court. They were remanded till January 8 and released on bail after paying Rs. 40,000 respectively.

Mohamad Pasmı went to the Thangalla Basic Hospital for three days. In the hospital, he informed about the JMO of the police assault. On January 31, they sent a written submission to the HRC and also informed the SSP in Galle, NPC and the IGP on February 6.

**212. Poddala Jayantha: Police allegedly attempt to abduct a journalist** Poddala Jayantha is a well-known journalist and the secretary of the Working Journalists' Association. His association has taken action regularly to defend media freedom and the right to exercise freedom of expression. At around 3am on January 7<sup>th</sup>, a group of persons came in two vehicles (bearing numbers GC-0306 and 2532008) and asked his wife to open the door, claiming that they were from the police and that they wanted to obtain information from Poddala Jayantha. She refused to open the door because for fear of abduction. Abductions in the night, a real threat and a very common happening in Sri Lanka, often end up in disappearances. When the group threatened to forcibly open the door, his wife called for help to the neighbors and as the neighbors realized that this group was attempting to assault the journalist. Once the group realized that there was a large crowd they retreated and got into their jeep and van and hurried from scene. The family immediately telephoned the Kahatuduwa police, which was the nearest Police station, but the police stated that they were unable to send a mobile team immediately. Then the Moragahahena police was contacted through the special emergency police no. 119.

The family was informed by officers in charge of the Police stations that they had not sent any team to question him and also that they were not aware of any outside police making a visit to their area. After making many inquiries, within about 4 hours the journalist concerned was able to confirm that the jeep bearing no. GC-0306 belonged to the Matara police. The officer in charge of the Police station, however, told the journalist that this vehicle had not been released for a duty of this nature. This attempted abduction comes after one of the events that caused a great scandal in the country where a minister of the government, Mervyn Silva, had allegedly forcibly entered Sri Lanka Broadcasting Corporation and assaulted a news manager for not telecasting one of his speeches. This incident created uproar among the employees who subdued the minister and the gang who accompanied the minister and the whole incident was greatly publicized in the country. Under these circumstances, all media organisations, including the Working Journalists' Association, took action in order to defend the rights of the media.

Meanwhile the Army Commander Lt. General Sarath Fonseka was quoted in the media as saying, "The biggest obstacle to achieving our targets of the military this year was the treacherous media institutions and media personnel." This statement drew condemnations from the Free Media Movement (FMM), the Working Journalists' Associations and other media organisations. This month, a leading global media network named Sri Lanka as the fourth most dangerous place for journalists in the world. However, the Sri Lankan government and the other state agencies refuse to take any action to protect the journalists.

In fact, creating fear psychosis among journalists and on everyone who engages in any sort of public debate appears to be a policy encouraged by the government. There have been many scornful remarks by spokesmen for the government about the requests for action that have called on the government to inquire into human rights abuses in the country. All local investigating authorities have been made dysfunctional by serious political intervention against any credible investigations.

The government also opposes any attempt from the United Nations to assist the government in conducting investigations.

#### **214. Shiraz Buhran: Mirihana SIU tortures man after arbitrary arrest**

On 15 January 2008, at about 4pm, Shiraz Buhran and his assistant returned to his workshop “R. Tec” at the Rukmale Vijeyapura junction at Pannipitiya, after attending to a purchase order. According to the information received, Shiraz Buhran observed that a Tata Signal Cab was parked outside his workshop. He then saw a police officer in the cab and heard him calling him. The police officer asked Shiraz Buhran where he had been. The police officer then called Shiraz Buhran’s assistant and wrote down his name and address. Then he told the assistant to take Shiraz Buhran’s motorcycle home as he was taking Shiraz Buhran to the Mirihana Police station because the OIC requested to see him.

There were six officers in the cab and he recognised Police Constable Nandasena, who was carrying a T-56, a SI, a driver and three others. Shiraz Buhran was then taken to the Mirihana Special Crimes Branch and told to stand in the corner of the room. Shiraz Buhran was then told that he was apprehended as a suspect of a jewellery theft that had taken place in the house of his cousin, Dr. Sampath Pradeep Kumara Athukorala, who lived next door to Shiraz Buhran. According to Shiraz Buhran, the two families were angry with each other and his cousin had purposely implicated him to avenge him.

An officer at the Police station asked the officer who brought him in “is this the fellow?” Then the officer came near him and asked, “Where are the goods?” The officer then suddenly slapped Shiraz Buhran on his cheek and with his fist hit him on his stomach several times. Then five officers who were there crowded around Shiraz Buhran and began to hit him with their hands and feet for about 15 minutes, shouting at him “to give the goods”. Among those who assaulted him, Shiraz Buhran recognised the SI who brought him to the station. Shiraz Buhran was then hand cuffed and was told to sit on a box.

At about 7pm Shiraz Buhran heard the voice of his mother and saw his mother talking to a SI. He immediately went up to her and told her that he had been assaulted by the police. The officer then scolded him and chased him away telling him to return to his place on the box. Thereafter he was visited by his wife and another relative. His work assistant also came to see him. He informed them that he had been assaulted by the police. He was handcuffed to an iron chair for the whole night. At 8am on January 16, police constable Nandasena came and threatened him “at least now tell the truth” and slapped him many times on his cheeks.

At about 9:30am Shiraz Buhran’s mother came and met the OIC with Shiraz Buhran. The OIC then threatened his mother that if she talked or reported the incident to human rights activists, he would send her son to prison for 14 days. Thereafter he was fingerprinted. At about 4:30pm a statement was recorded and he was released. However, he was not allowed to see what was written nor the statement that he had recorded. When he was leaving the Police station, the OIC threatened him

that he had heard that his mother had consulted human rights activists and if he tried to continue such steps they would fabricate a charge and send him to prison.

Shiraz Buhran alleged that he was falsely implicated in the theft and was assaulted and harassed by the officers of the Mirihana Special Investigation Unit on the instigation of his cousin Dr. Sampath Pradeep Kumara Athukorala as an act of revenge. He then said that his cousin, a doctor, is married to a doctor who is the daughter of the Assistant Superintendent of Police Kalutara. He then argued that the offence should have been investigated by the Homagama police under whose jurisdiction it lies but was instead investigated by the Mirihana SIU.

On January 19, Shiraz Buhran reported this incident by a written complaint to the HRC and NPC, IGP and DIG Legal.

### **215. Hiriyage Gratian Lasantha Prasantha Perera: Threatened and illegally detained**

Hiriyage Gratian Lasantha Prasantha Perera's job was polishing wood furniture. On 18 January 2008, Gratian was called to the Payagala Police station where he was told that a complaint had been made against him by a client. Gratian had worked on a polishing job at the client's house from 1 to 23 December 2007. About one week after Gratian had completed the work at the house, the client made a complaint against Gratian to the Payagala police saying that he had not completed the work satisfactorily and he should re-do the work at his own cost.

Gratian was kept in the police cell for about 20 minutes and released only after the OIC came to the Police station. The OIC threatened him that he will be beaten if he does not sign a statement saying that he will re-do the work at his own cost at the client's house. Gratian signed the statement and went home.

On January 31, Gratian was again called to the Payagala Police station. But he was unable to go, and so he sent his wife to the Police station. When his wife went she met the OIC who scolded her loudly and insisted that Gratian re-do the work. The OIC threatened her that if Gratian does not re-do the work he will fabricate a case against him and send him to prison for years.

On February 2 at about 10:30am, the client's brother with five other persons went to Gratian's house but he was not there at that time. They confronted his wife who was 8 months pregnant and threatened her by saying that her husband will not be allowed to walk on the street and that they will kill him if he does not re-do the work. His wife says that one of them, a woman tried to hit her.

Between 10 to 11pm, the client's brother again went to Gratian's house with three officers of the Payagala Police station. The officers told his wife to ask Gratian to come and meet the OIC. Gratian's wife then asked them if they could give her a note to that effect. The officers then told her that they did not issue notes and to see that her husband comes and meets the OIC. Gratian reported this matter to the SSP (SSP) Kalutara in the presence of the OIC Payagala on February 6. The SSP instructed an officer to take down a statement from Gratian. Then the OIC, who was on



the premises then met Gratian and told him that he would file a case against him. When Gratian was leaving the premises, the OIC had threatened him with saying, “be careful!” On the same day evening an officer from the Payagala Police went to Gratian’s house and had given him a note instructing him to come to the Payagala Police station the next day.

At 9am on February 7, Gratian and his wife went to the Payagala Police station as the note indicated. The client was also there. He re-told the whole incident but the officer who conducted the inquiry stated that it is pointless fighting with the police, and that they have put the matter to the courts. The officer gave him a form (receipt of arrest) and put Gratian into a cell telling him that he would stay there until he was taken to court. The receipt recorded that the reason for arrest was “criminal breach of trust”.

Gratian was put into the cell at 11:15am till 12:15pm. Then, he was taken out of the cell and a statement was taken from him before he was produced before the Magistrate’s Court of Kalutara. He was released on bail.

Gratian’s wife went to the Payagala Police station with a written request asking for the ‘complaint’ document on which the case was based on February 8. A female police officer told her that a letter from an attorney-at-law is required for the purpose. The letter was then produced on February 18 to the same female officer. The officer taking the letter, asked Gratian’s wife to come on February 25 to collect the document. Accordingly his wife went to meet her on February 25 but was told that there was still more time for the case and the officer did not give the said document.

Gratian informed the HRC, NPC, IGP and SSP OF Kalutara of this situation on February 1 and 7. His wife and his mother also informed the same persons between February 5 and 26. However, no action had been taken.

#### **216. Umesh Chaturanga: Police and jail guard torture boy to confess**

Umesh Chaturanga was a 16-year-old student of H/Meegahajadura Maha Vidyalaya. At about 2:30pm on 20 January 2008, Umesh Chaturanga went to the Sooriyawewa Police station with his parents after they had been asked to report there. His school principal Sunil Kumara was also at the Police station. One of the officers, Sgt Premadasa called him inside and asked him, in front of his school principal, whether he had broken the door of the home science room with his friends. When he denied the accusation, Premadasa started beating him on his shoulders with a 2 to 3 foot long wooden pole. In addition Premadasa asked him what else he had done after breaking the door. Soon thereafter, Officer Anura, a member of the Traffic police came into the room and slapped him on his right ear. His father was in front of the station but not allowed to come inside.

After the two police officers assaulted him, Umesh was locked him up in a cell. His father tried to call him and retrieve him from the station but the officers chased him away. When he refused to

leave the officers shouted at him that he could bring something to eat for his son. At around 5:30pm his father returned with two rolls and buns and left. The principal also left at the same time.

At midnight, the two officers above mentioned took Umesh out of the cell. Premadasa dragged him by his shirt collar and shouted, "Tell the truth! You took a television set and an amplifier". When Umesh denied the charge, they beat him again on his shoulders, lower back and both legs for about half an hour. Then they asked him which other boys were involved. He stated that on 7 December 2007, as the room door was not locked, he entered the room with Nuwan Rana and prepared and drunk some tea, but neither boy stole anything. The officers again beat him and put him back in the cell. Even though he was in severe pain due to the torture, the police did not provide any medical treatment.

At 5am on 21 January, the officers took him out of the cell and demanded to know where he was hiding the jewellery stolen from Coranel Ralahamy's house and started hitting him again. As he could not bear the pain caused by the torture any longer, Umesh Chaturanga forcibly confessed to the accusations. Then Premadasa wrote something in a police entry book. The officers took him to the principal, teachers and his parents and forced him to confirm his confession. He had no choice but to accept everything because he was afraid that the officers might torture him again if he refused. Premadasa said to the others, "Now you heard he accepted everything."

Then, the officers took him and his parents in a three-wheeler. They dropped his parents off near his house, before proceeding to his friend Nuwan's house. Nuwan was not at home but on the way to another friend's house, Dinesh, they came across Nuwan on a bicycle with another person. They arrested Nuwan and put him into the three-wheeler. Premadasa slapped Nuwan on both cheeks and legs. The officers then went in search of a boy known as Rana (Chatura Maduranga) and arrested him too. They took the boys with them out to Kinissayaya Junction. Premadasa got a wooden pole and shouted at the boys asking them to identify the location of the stolen goods. When the children said that they did not steal anything, the officers repeatedly hit them with the wooden pole and then put them into the cell at the Police station.

On 23 January the police filed two robbery charges against them and then brought them before the Hambanthota court. The children were taken to Hambanthota prison as they were unable to pay the fine Rs. 10,000 and put in a room with nine other inmates. Guards at the jail tortured Umesh with hose pipes and put him under a table in order to humiliate him in the guards' room on the night of the 24th. On 25 January the children were produced before Hambanthota court again and released on bail.

On 3 February Sgt Premadasa picked up Umesh, Nuwan and Lahiru from their respective houses and brought them altogether to the Police station. On the way, he threatened them by saying, "Give us all the stolen goods, otherwise we will call the villagers and hold a meeting and tell them that you are thieves." After travelling about one kilometre, he stopped the vehicle and told Umesh and Nuwan to run. When Umesh went to the Police station on Sunday to sign in as required under his

conditions of bail, Premadasa once again threatened him saying, “I tortured Lahiru, he would hold a meeting and hand you over to the villages unless you return the goods you have stolen.” However, Umesh has strongly denied any knowledge as to the whereabouts of the goods.

Umesh Tharanga submitted a complaint to the IGP, SSP Tengole, HRC and OIC of Sooriyawewa Police station. He also sent his affidavit to the chief justice, NPC and National Child Authority.

### **217. Thanuja Lakshmi: Hit with an axe**

Thanuja Lakshmi is the mother of 14-year-old Kaushalya Ratnayake and oneand-a-half year old Sashini Sehara Ratnayake. Her husband Cyril Ratnayake worked as a security officer, attached to the Housing Authority, since 1987. He was stationed in Amparai and came home only for weekends.

At about 10am on 3 February 2008, Thanuja saw Rasika, who was employed with the Divisional Secretary’s office at Kataragama, drinking alcohol with two other persons whose names she did not know but could identify. Thanuja heard that they were talking about the house of Mahindasiri, an accountant attached to the office of the Divisional Secretary which is situated behind her own house.

At 4pm, Rasika came to her house and asked for her husband and Thanuja replied that he was at work. Rasika then repeatedly asked her about her husband and become more threatening. Thanuja then asked him who he was and he showed her his identity card.

Then he asked her “What is the dispute you are having with accountant Mahindasir’s land?” Thanuja told him that she was not aware of anything and he had better ask her husband about it.

Then again Rasika shouted, “Where is Ratnayake? Tell him to come out.” Then he attempted to enter the house which Thanuja tried to prevent. However, Rasika pushed his way inside, pushing Thanuja into a room and on to a bed. In the process he caught her and pulled her dress and in the struggle her skirt was torn. Thanuja started to shout for help. Then he took an axe which was lying in a corner of her house and hit her with the handle. Thanuja fell down under the weight of the blow and Rasika struck her again several times. Then the accountant Mahindasiri too came with his sarong raised and asked for her husband. Thanuja Lakshmi noticed that he too was drunk.

Hearing the noise Thanuja’s neighbor Sunil Dayaratne came and pulled Rasika by his shirt while Rasika struggled with Dayaratne. At that moment Premasiri, Podi Dayaratne, and Weerakoon who are employees attached to Town Development Authority, and some other persons who had heard Thanuja shouting came running and pulled everyone out. Then Rasika and Mahindasiri started to fight with those people.

Thanuja says she was in severe pain due to an injury to her hand and went to the Kataragama Police station to lodge an entry. Inside the Police station, while the police officer was taking down her complaint, another officer told him that there was a phone call from the Divisional Secretary. After

answering the call the officer came back and continued to write down her complaint. After finishing, the police just got her signature on it but did not make her read the contents. Then the Police sent her to the Kataragama Hospital.

Thanuja says that while the Doctor was checking her, he too got a telephone call from the Divisional Secretary. The Doctor told her that he could not treat her and sent her to Hambanthota Hospital in an Ambulance. The same day at about 8pm they operated on her arm. She was in the hospital for three days and in the afternoon of 5 February 2008 she was discharged. Since then, she has been unable to work and her arm is still in plaster.

On 6 February she went to the Police station and the police asked her to go to the Mediation Board and settle the matter, which she refused. A case was instituted in court. Based on her complaint, the police started investigation into the alleged assault however, no progress has been reported. In addition, due to the alleged influence by the office of the Divisional Secretary the case had not been investigated.

#### **218. Joseph Arul Fernando: Last seen on his way to navy camp**

It was on 6 February 2008 that victim, Joseph Arul Fernando, was last seen on his way to the Kalpitiya Navy Camp. Joseph went there after he had been requested by one of the Navy personnel to join a party for his daughter's birthday. From his home, Joseph was carrying some bottles of alcohol and some small food for the party which was supplied to him by his brother's wife, Varuni. However, since then Joseph has not returned home. When inquiries were made with the navy personnel, they denied that there was a party although they had acknowledged that they had requested a party.

There was information that two days after Joseph disappeared, he was seen inside the camp. Meanwhile, some of the navy officers had also begun extorting money from Joseph's family in exchange for his release. Wanting to get him back, on February 28 and 29, Joseph's family decided to pay over Rs. 150,000 to these persons. However, even after getting the money they never produced Joseph or revealed his whereabouts.

On February 8, Joseph's family made complaints regarding his disappearance with the Kalpitiya Police station; the HRC in Colombo on February 8 and 13; the Ministry for Disaster Management and Human Rights on February 12 and Police Headquarters on May 12.

#### **219. Delwala Nakathige Keerthi Padmakumara: Police torture with pole**

Delwala Nakathige Keerthi Padmakumara ran a hair salon in the village of Godakawela. On 7 February 2008 when he was busy working in his salon, a school boy who Keerthi Padmakumara knew to be a resident of the area, but whose name he did not know, came into the salon and showed

him a mobile phone. The boy asked Keerthi if he would help him sell it and Keerthi asked the boy to leave the phone in the salon. After a while a person came into the salon and Keerthi told him that there was a phone for sale. Keerthi asked him if he would be able to sell it. The man took the phone away after telling Keerthi that he will get it sold.

At about 4pm a police officer from the Godakawela Police station came to the salon and took Keerthi Padmakumara to the phone shop in Godakawala. The owner of the shop was present. The officer asked Keerthi Padmakumara if he had stolen a phone from the shop. When Keerthi replied that he had not the officer slapped his cheek. Keerthi Padmakumara was then taken to the Godakawela Police station and put in the cell. Later in the evening an officer took him out saying that he wanted to take Keerthi's statement. The officer then told him to admit that he had stolen a phone or otherwise he will hit him. Keerthi again said that he had not stolen the phone. Then the officer asked him to turn his back and stretch out his hands up on the wall. The officer then took a pole which was about 4 feet in length and started to assault him severely on his shoulders, spine and legs for about 10 minutes. He further says that due to the severity of the blows he could not breathe.

He confessed to the accusation in order to escape the continuing assault. Only then did the officer stop the assault. Keerthi Padmakumara says that the officer who assaulted him was referred to as the 'Saame mahaththaya' meaning sergeant. Keerthi was then taken to the room of the Officer in charge (OIC), where he was again asked if he had stolen the phone. It was out of desperation and fear that he would be tortured again that he felt he had no choice but to say 'yes'. The officer who assaulted Keerthi then proudly stated that when 'the works were given (meaning that when he was tortured) that Keerthi Padmakumara had accepted that he stole the phone'.

The next day, February 8, another officer proceeded to take a statement from Keerthi Padmakumara but when he asked to see the statement he was refused. Keerthi says that he was not allowed to see what was written nor was it explained to him but he was forced to sign the statement never-the-less. He was then returned to the police cell. Later that day Keerthi Padmakumara was produced in the Magistrate's Court of Palmadulla. Keerthi Padmakumara got to know that, inter alia, he was charged with the offence of 'inducing a minor to commit an offence' and 'racketeering for a long period'. The police objected to bail but he was later released on a cash bail of Rs. 6000.

Subsequently on February 26 and 27, Keerthi went with his parents to meet the ASP Ratnapura. However, they were not able to meet the ASP on both those days and only met him on the 1 March 2008. They informed the ASP of the incident and the police assault which resulted in his confession. The ASP advised them to go back to the Godakawela Police station and make a statement and if justice was not done to come back to him. On the same day Keerthi Padmakumara and his parents went to the Godakawela Police station and met the OIC, and told him what the ASP had said. However, the OIC did not show any interest and said he could tell his story in court when the case is called.

Keerthi Padmakumara sent written complaints giving details of the incident to the HRC, NPC, Attorney General, IGP, DIG Legal Branch and the ASP of Ratnapura.

## **220. Uduwana Athukoralage Don Lal Lasantha: Police allegedly fabricated charges against a man and his family members**

Uduwana Athukoralage Don Lal Lasantha ran a shop in the front room of his house. At about 8pm on 8 February 2008, two men walked straight into Lal Lasantha's house through the shop and began to search his home throwing things around. Lal Lasantha was minding the shop at the time. When he saw what was taking place he ran out of the shop and suspecting them to be robbers began to shout for help. Lal Lasantha's parents who live in a house opposite to his house also came running out. Lal Lasantha's two sisters and a brother who were also living in that house came out. As soon as he got out of his shop, he saw Karu and Susantha from the nearby R & R Construction Company standing near his shop.

Hearing the commotion and seeing the people gathering outside the shop, the two men, who had gone inside Lal Lasantha's house in search of something came out and said that they were from the police and left with the two from the company. Lal Lasantha heard one of the men taking a call from a mobile phone he carried to the Police station. Lal Lasantha identified the two as SI Dammika and SI Buddika of the Baduraliya Police station.

At 7pm on the following day, February 9, when Lal Lasantha was minding the shop, a police jeep drove up and stopped by his shop. There were several police officers inside including the OIC of the Baduraliya Police station and SI Dammika and SI Buddika. The OIC and the two SIs got out of the jeep and came into the shop. They demanded from Lal Lasantha where the two batteries were. Lal Lasantha said he did not know anything about it. As he denied knowledge of the batteries the police handcuffed Lal Lasantha and pushed him into the police jeep.

The jeep drove to the premises of the R & R Construction Company. The OIC and the two SIs got down and went inside. Lal Lasantha saw them speaking with Karu from the company. SI Dammika came to the jeep and began to threaten Lal Lasantha. "Don't think we will let you go so simply," he said. "We will put bombs or drugs and fabricate a case against you and send you to prison. We are licensed thugs!" Then they took Lal Lasantha to the Baduraliya Police station and put him into the police cell. Lal Lasantha was only dressed in a sarong but they did not allow him to get a shirt or close his shop. They did not give Lal Lasantha anything to eat that night.

At 8:30am on February 10, Lal Lasantha was taken out of the cell and told to sign a statement he never made. He was neither allowed to see what was written nor was anything explained. He was simply forced to sign. He was then taken to the Baduraliya hospital and shown to the DMO. After that Lal Lasantha was put back into the cell. He was not given anything to eat during the morning or for lunch.

At around 2:30pm Lal Lasantha was produced before the Mathugama Magistrate's court and remanded for five days. At the end of this period he was again produced in court and bailed. Later Lal Lasantha got to know that he was charged with the obstruction of police duties. He also got to

know that his sisters Anoma Chitrani, Deepa Damayanthi and his brother Sarath Wickramasinghe had also been made parties to the charge.

Lal Lasantha informed by written complaint to the HRC and NPC, Attorney General, IGP, DIG Legal Branch and SSP of Kalutara about this situation. However, no action had been taken.

### **221. Dodampe Gamage Asantha Aravinda: Acid thrown in his face**

Dodampe Gamage Asantha Aravinda and K.J. Thusara Chaminda were young friends and on 28 February 2008, they set out on a motorbike with plate No. SPTF1330, to go to the house of a relative in the Pitabaddara area of Matara District. As the relative they were visiting was not yet at home they went to refuel the motorbike. At around 5:30pm, they passed a truck with plate No. 227-7805. The driver of this vehicle alighted from the truck and crossed the road without checking for oncoming traffic. As the motorbike was passing this driver's hand slightly touched the motorbike's rear view mirror upon which the driver was very angry and there was some exchange of words between the parties.

The driver thereafter said, "You go ahead and let's see what happens." The two young people ignored this and continued their journey. However, not long thereafter the truck pursued them from behind and struck the motorbike. Due to the impact, Aravinda was thrown some distance from the scene of the collision.

When he managed to get up and return he saw that Thusara Chaminda and the motorbike were both lying beneath the truck. The driver got out of the truck and ran away from the scene. Aravindra pulled his friend out from under the truck and found that Thusara Chaminda was bleeding severely from an injury to his leg. Aravindra tried to find a vehicle to take Thusara Chaminda to a hospital but could not find one. He left Thusara Chaminda near a house where he also kept the damaged motorbike and went looking for a three-wheeler to take his friend to the hospital.

As he was searching, a taxi stopped from which some people alighted and claimed that they were from the Pitabaddara Police station in the Matara District. Among the group was the driver of the truck and the group had guns in their hands. The truck driver went forward and said, "You are the one who collided with my truck," and started beating him. Thereafter, Aravindra's hands were tied behind his back and his legs were also tied and they continued to beat him. The police officers picked him up and dropped him several times. When Aravindra fell in the gutter, they pulled him out and continued beating him.

Aravindra called for water and then the truck driver took a bottle, put something into a cup and gave it to him to drink. Aravindra soon realised that he had been given acid. He shouted asking, "Isn't it acid that you have given me to drink." The truck driver said, "So you can't drink it," and threw the acid into his face; the liquid also spread to his eyes. Aravindra then shouted in pain. By this time someone also brought Thusara Chaminda to the same place and he was also beaten by the

police officers. The officers who were identified as those who carried out the assaults are the OIC of the Police station, Karunasena (who passed away some time after this incident), Sgt Athapathu (No. 21899), PC Gamini (No. 58881), PC Sugath (No. 3089) and some other officers.

Aravindra and Thusara Chaminda were taken to the Police station and the truck driver arrived later with some liquor. The OIC of the Police station and the driver opened the police cell and assaulted the two friends again. When Aravindra shouted in pain because of the acid burns and with the further pain of the beating some police officers came and poured liquor on the burns. Aravindra's father learned about the incident at around 11pm on that day and went to the Pitabaddara Police station, in Matara District to see his son and Thusara Chaminda. Several other friends and family members of the two young men also arrived. However, they were refused permission to see Aravindra and Thusara Chaminda. Aravindra's father, with his wife and younger son went to see him on the morning of the next day (February 29) but were not allowed to meet him. The family was not even allowed to bring food and drink to the two men. At around 11am, Aravindra's father arrived at the station with the president of the Provincial Council but once again permission to see the two young men was refused. The police told the father that some local people had assaulted Aravindra and thrown some acid at him and that they have discovered a gun in the possession of Thusara Chaminda. Aravindra's father insisted that since his son had not committed any offense he wanted to see him. When they were again refused the father pleaded with the police to take Aravindra to a hospital. The officers replied that they would do that soon.

Aravindra's father went to the station several times during the day to renew his request that his son be taken to the hospital but the officers refused to do so. Aravindra's father kept on trying on March 1 and he saw that at around 3pm Aravindra and Thusara Chaminda were taken out and shown to some cameramen and journalists. The OIC asked Aravindra to remove his shirt and then his father saw that the left side of his chest showed severe burn marks. There were also wounds on one of Thusara Chaminda's legs. The cameramen took pictures of both from various angles. Thereafter, the OIC of the station ordered Aravindra's father to pay for the photographers. He paid Rs. 175 to the cameramen through Sergeant Athapathu. Thereafter the two young men were taken back to the cell.

Aravindra's father contacted an Attorney-at-Law who made a telephone call to the Police station. The lawyer was told that these two persons would be taken to a hospital. Later someone called to Aravindra's father by a mobile phone and told him that the two men had been taken to Moravoka Hospital. However, when he went to the hospital he could not find either of them so he returned to the Police station. There a police officer approached Aravindra's father and said, "You better go away otherwise somebody may kill you." He replied that, "Even if I am killed, I will not move away."

At about 7pm, Aravindra and Thusara Chaminda were put in a police vehicle and Aravindra shouted to his father, "Please don't go home they may kill us." At this the father replied that he would not leave but would follow them. The police car took the two people to the Matara Hospital. Aravindra was hospitalised at Ward No. 24 on March 1. He was treated there up to the 5th March. During this time his father talked to the specialist doctor who was treating his son. The doctor stated that due to



delayed treatment the situation of Aravindra's eye was serious and that he had lost the sight in that eye completely.

On April 3, an operation was performed on the eye. After this the situation became even worse and he was transferred from the Matara hospital to the Colombo Eye Hospital. By then Aravindra had completely lost his sight in one eye and his hearing in one ear had also deteriorated. Aravindra is still taking treatment at the Colombo Eye Hospital. Meanwhile the Pitabaddara Police has filed charges against Aravindra and Thusara Chaminda for possessing a fire arm, attempting to shoot some person and attempting to engage in a robbery. No action had been taken against the truck driver and the police officers for their actions in throwing acid as well as severely beating Aravindra and Thusara Chamindra. Also no inquiry had been taken for keeping Aravindra and Thusara Chamindra for two weeks at the Police station beyond the 24 hours permitted by the law, thus preventing them from getting medical treatment for their serious injuries.

## **222. Pitchchai Thambi Marikar Faiz: Whereabouts unknown after arbitrary arrest**

Pitchchai Thambi Marikar Faiz, returned to Sri Lanka after working in the Middle East for about one and half years. He lives with his family in his village of Wanathawilluwa and works as a farmer. Faiz owns a gun for the protection of his harvest and holds license No. D790957.

At about 11:30pm on 28 February 2008, Faiz's family members heard someone was shouting Faiz's name outside the house. Faiz's wife asked them who they were and was told that they were from the police and to open the door. When she opened the door, a police officer in uniform and two others in civilian clothes forcibly entered the house. One officer in civilian dress pulled Faiz up and told him to dress and accompany them with his Identity Card. Faiz did so. Faiz's wife asked them where they were taking him and the officer in uniform told her that they were taking him to the Wanathawilluwa Police station. They took him in a white van without a number plate.

At 6am on following day, on February 29, K.M. Samsudeen (Faiz's brother-in-law) went to the Police station and had seen the white van parked near the station, with Faiz inside. Then the police officer shouted at Samsudeen not to interfere and also not to come back. He then took his identity card too. Faiz's wife too had gone to the Puttalam Police station in search of her husband. While she was away from their home, a man in civilian clothes who identified himself as being from the CID went to their house and made inquiries from the children about the weapon Faiz owned.

On March 3, Faiz' younger brother went to the Police station and inquired about him. Then the police told him that they had sent Faiz to Colombo as he has had connections with the Liberation Tigers of Tamil Eelam (LTTE). The officer further told him to surrender the gun to the Police station. On following day, March 4, Faiz's brother handed over the gun along with the license and recorded it in the Police Information Book. At this time the members of Faiz's family informed the HRC over the phone about the incident.

On March 6, Faiz's wife and two brothers went to the Wanathawilluwa Police station to lodge an entry. However, a police officer bearing badge No. 55108 told them that it was no use in making an

entry there and told them to inquire at Colombo Fort Police station. They then made inquiries from that station but the officers told them they did not know anything about it. Faiz' family said that Faiz is an innocent man and he does not have any connections with LTTE. He is the only breadwinner in the family and they cannot survive without him.

### **223. M.L. Basil Perera: Warned not to report torture**

On 6 March 2008, M.L. Basil Perera was taking a cow to be handed over to a buyer and was walking in the Negombo Road near Welisira. An officer of a checkpoint questioned him about his journey and after he explained he was allowed to proceed. While he went further he was stopped by some village guards who arrested him and took him to the Kandana Police station.

PC Wijeratne placed Basil Perera in a cell and later took him out of the cell for a statement. While recording the statement, the officer suddenly hit Basil Perera over his right eye. Basil Perera felt severe pain and closed his eyes and then the officer struck his face once again. Due to this assault he felt severe pain in his head. Later the same officer told the victim not to make any complaints.

After the OIC of the station came he was released. Later the victim entered the Ragama hospital and was admitted. There were visible marks of injury about his right eye. A JMO examined him and made a medical report. The victim also made complaints to the relevant authorities.

### **224. Buddhi Ivantha Gunasekara: “By hitting the boy like that it will not work; a pole would do the trick”**

At 3pm on 7 March 2008, a police search party comprising of SI Athukorale of the Meetiyyagoda Police station, another officer and a Home Guard came to the house of Uspatabandige Buddhi Ivantha Gunasekara ('Buddhi'). The SI and the home guard were in civilian dress. The home guard had a bandage on his arm. They were following a police dog who led them to three houses in the vicinity. Later the family discovered that the search party had come in the van belonging to Siripala (who was a man from the village and was also with the search party).

SI Athukorale asked Buddhi's mother where her husband was. She told him that her husband had gone to work in the paddy fields about 6 kilometres away. The SI then told her to take them to him. She refused and asked her son Buddhi to show the way to where his father worked. Buddhi obliged and got into Siripala's van with the police search party. However, the police took him straight to the Meetiyyagoda Police station.

They took him to the room of the OIC. The OIC grabbed him by his hair and banged his head on the wall several times. Surprised and frightened Buddhi fell to the floor. Then the OIC trampled and kicked the boy with his boots. Then he instructed SI Athukorale to take the boy to the Crimes Branch. The SI dragged the boy to the door of the room of the Crimes Branch and kicked him inside making Buddhi go sprawling into the room.

Then he slapped Buddhi and demanded that he give “the stolen goods”. Buddhi replied that he had not stolen any goods. SI Athukorale then bent him forward and hit him hard on the back of his neck.

The home guard who had been one of the search party and was watching this scene piped in saying that “by hitting the boy like that it will not work, and a pole would do the trick”. SI Athukorale then asked him to fetch a pole and a pole was brought. The SI then held Buddhi tightly by his shoulders while the home guard hit him hard with the pole on his buttocks. SI Athukorale then asked the home guard to bring him a lighted cigarette. The cigarette was kept close to Buddhi’s ears till the heat became unbearable and Buddhi closed his ears with his hands.

Then, SI Athukorale and the home guard took Buddhi to another room at the rear of the Police station. They tied his hands behind his back with a thick rope and threw the other end of the rope over a beam on the roof. Thus they hung Buddhi while SI Athukorale supported him by holding him by his legs. The home guard then hit him with a pole on his buttocks while continuing to ask him about the money. Buddhi told them that he did not have any money with him. However, he told them that his brother (eleven year old Tharindu) had some money. The officers then took Buddhi to his house in Siripala’s van and asked him to show it to them.

When Buddhi was taken home, his father was getting ready to come to the station. When Buddhi met his father, he told that the police were torturing him. But the officers scolded every one in filthy language and shouted at Buddhi to give them the money. Buddhi showed them his brother Tharindu’s purse. Then they took both boys back to the Police station. Their father followed. They took Buddhi to the Crimes Branch while his brother Tharindu was made to sit on a bench outside. They demanded to know from Buddhi how they had got the money, and Buddhi told them that his brother Tharindu had picked it up from the road. They also questioned Tharindu about the purse. SI Athukorale told his father to beat Buddhi and find out where the “stolen goods and money” was. The boy’s father refused to do this. Instead he asked Buddhi if he had any part in the accusation. Buddhi told his father that he had no hand in it. Buddhi was kept in the Crimes Branch while his father and brother Tharindu were told to wait outside.

At about 8pm, the OIC arrived at the station and asked SI Athukorale to put Buddhi into the cell. There were two adults in the same cell. Buddhi’s father and brother Tharindu were told to go home. That night Buddhi saw Siripala and his relative Somalatha her husband and son in the Police station.

The next day, (May 8) Buddhi was produced before the Balapitiya Magistrate. A lawyer appearing for Buddhi obtained bail for him. Buddhi’s father says he was not aware of the charge against his son. Buddhi was taken back to the Police station. At the Meetiyaagoda Police station, Court Sergeant Wijeratna forced Buddhi and his father to affix their signatures to some documents. They were told it was regarding bail, but they were not allowed to read what was written. Buddhi went home with his father. The trauma of the ordeal was too much for the boy. That night he became very sick; his body and head hurt. On March 9, he was admitted to the Balapitiya Hospital. He told the doctor who examined him that he was tortured by the police. On March 13 he was examined by the JMO

and the hospital police also recorded a statement from him. He was discharged on March 13 but readmitted again on March 14 and received treatment until March 24. The JMO had again examined the boy.

On March 11, Buddhi's father made a complaint about the incident to the Elpitiya ASP and to the HRC on March 19. In response to his complaint, officers from the HRC visited Buddhi's house to inquire into the incident on March 27. ASP Fernando also visited the house of Buddhi on same day but scolded his parents referring to the fact that the incident had appeared on local TV. He told Buddhi to come to the Meetiyyagoda Police station at 1pm that day. Accordingly Buddhi went with his father to the station where the ASP took down a statement from him. Buddhi's mother was called to the Elpitiya ASP's office to record a statement on March 28.

On March 29, Buddhi's father made a written complaint about this incident to the HRC and NPC, IGP and DIG Legal. However, no further action had been taken.

#### **225. (Name withheld): Raped by police officer conducting inquiry**

On March 9, 2008, at about 11:30am, a police officer attached to the Hakmana Police station came to X's house (name withheld for security reasons) to inquire about the complaint she had made earlier regarding a land dispute with her neighbours. The officer entered her house and sat in the hall to take down details of the dispute. She told the officer that as a result of the land dispute her neighbours had damaged her plantation and had thrown stones at her house causing the tiles on her roof to break. The officer recorded all these details and gave her a note instructing her to come to the Hakmana Police station on March 15 for an inquiry. The officer then walked around the house assessing the damage to the plantation and the roof and observing that there seemed to be some damage to the tiles over the bedroom asked her to show him into the bedroom to see it from inside.

When she showed him into the room, the officer suddenly caught her in his arm. Surprised, she tried to get away but he held her tightly and kicked the bedroom door shut. She struggled to get away from him but he then hit her spine hard with his hand and threatened her not to make noise. He then threw her onto the bed. She tried to get up and escape by pushing the officer away from her. However, the officer forcibly raped her and she lost consciousness.

When she regained consciousness, she was so terrified that she was unable to make a move. She saw the officer picking up a used condom from the floor; the officer lingered for some time and then left the house. Even after the officer had left the house, she could not move from the bed. When her mother came that evening, she found her daughter in bed. Her mother asked her why she had not cooked a meal and she said she did not feel well.

On March 15, she went to the Hakmana Police station for the police inquiry regarding the land dispute where she met the OIC to report the incident of rape. However, being frightened by the OIC's stern mannerism, she only mentioned the complaint regarding the land dispute. The OIC

called another officer told him to look into the matter and put it to court. This officer then took up the inquiry. On March 16, she went to the Deyyandara Hospital to get treatment. She told the doctor who examined her that she had been raped by an officer of the Hakmana Police station. The doctor advised her to get warded and sent her to meet another doctor. When she went to meet the said doctor, she saw other villagers there. She did not want her situation to be known to them so she left and returned home.

Subsequently, she informed her sister-in-law about the incident of rape and went with her to the office of the ASP in Matara to report it. They made a complaint to an officer of the ASP's office since the ASP was not available. The officer who took down the complaint then called the OIC Hakmana Police station and notified him of the complaint. The officer also instructed her to go and meet the OIC and gave her a note to be given to the OIC; however, she was too sick to go to meet the OIC and got admitted to the Matara General Hospital where she received treatment for ten days (March 17 to 27). The hospital police took a statement from her and a female police officer also came and took down a statement. The Judicial Medical Officer of the hospital also examined her. The victim was discharged from the hospital but she was still in shock and feeling unwell. She did not want to go back to her house and live by herself as she had done earlier so went to live with a relative.

She submitted a written complaint on April 1 to the HRC, NPC, IGP, Police Headquarters, SSP Matara and the DIG Legal. On her request to know if any action had been taken against the police officer, the OIC of Hakmana Police station informed her that the said officer had been suspended. However, no further information on the progress of this case has been reported.

## **226. Shanthigara Suresh Kumar: Schoolteacher brutally tortured in police detention**

Shanthigara was the master in charge of hockey for the primary school at Trinity College. He was requested to go to the Kandy Police station on 11 March 2008 at around 2:30pm on the pretext that his help was needed to organise a hockey tournament. He visited the Police station as requested and was arrested without being informed of the charges and placed in a police cell. The same day two uniformed officers and three others in civilian clothes went to his house and removed his computer, laptop and some CDs. On same day he was questioned and subjected to severe torture. He was again interrogated on 30 March and in the morning of 31 March. He complains that he was stripped naked, hung from the ceiling and beaten by several police officers. He also complains of being kicked and being burned on the head with cigarettes. Chilli smoke was also blown into his face and he was also subjected to electric shocks. He was told to admit that his school principle at Trinity College was involved with terrorists, which he refused to do. He was repeatedly asked to commit suicide.

IPs Nishantha, Yatawara and Karunarathne, Sgt Nihal and PCs Ratnapala and Jalielm were allegedly responsible for torture.

Shanthigara was produced before a magistrate on March 31 and ordered to be remanded at Bogambara prison. He was granted bail on 18 July, after 68 days of his detention, and asked to sign in at the Kandy Police station every Sunday. After suffering the torture Shanthigara states that he has developed asthma and suffers from headaches. There are marks of torture all over his body and he is being constantly threatened not to take any action against the police. The police have filed fabricated charges of providing information to terrorists and training terrorists.

Shanthigara's wife was a teacher at Ashoka Vidyalaya and her job was terminated because of the incident.

### **227. Peer Adumai Mohamed Rafeek: Whereabouts of man detained for questioning unknown**

Around 9:30pm on 20 March 2008, seven persons in civilian dress and another in the uniform of the Special Task Force (STF), all bearing firearms rushed into the house of Peer Adumai Mohamed Rafeek. One of them pulled Peer by his shirt and identified the team as being from the CID Head Branch in Colombo. They further said that they wanted to question him but failed to provide specific reason for his arrest. They then took him in the white van and told his wife to come to the Slave Island Police station the following day.

The next day, March 21, when his wife went to the Slave Island police station, she was told by the police that they knew nothing about her husband and this incident. From the information received, the police did not receive any complaint regarding this case on the same day but a case in this regard was filed on March 22 at the Police station in the area where Peer resided. The victim's wife informed the HRC, the Presidential Commission and the CID Police Headquarters about this incident, but obtained no information.

### **228. Muthuwahennadi Roshan Koitex: Policeman assaults partner of woman with whom he had an affair**

Muthuwahennadi Roshan Koitex, a fisherman, had been cohabiting with a woman for over six years who was later found to be having an affair with another man, SI Sanjeeva Senevirathne attached to Hikkaduwa Police station. According to the information received, SI Senevirathne started coming to Roshan's house in search of him for no apparent reason, which made Roshan fear that he was being persecuted.

On 26 March 2008, Roshan decided to go to the Hikkaduwa Police station with his father to meet OIC and make a complaint regarding the abuse of power by SI Senevirathne. However, when they went to the station, the OIC was not available to meet and another officer took down the complaint and recorded Roshan's statement. Roshan noticed that when he came to the part about the harassment by SI Senevirathne, the officer ignored his comments and did not take them down.

On March 27, the woman told Roshan that SI Senevirathne was coming to catch him that night. Due to fear, Roshan left his home and went to his father's house. At about 11:30pm Roshan crept up close to his house and saw that SI Senevirathne was inside with the woman. Roshan was later informed by the woman that SI Senevirathne had threatened to kill him 'like a dog'.

On March 28, Roshan went to the Hikkaduwa Police station again, met SI Senevirathne and asked him why he was looking for him. The SI accused Roshan of frequently quarreling with the woman and being addicted to ganja (cannabis) and heroin which Roshan denied. The SI called the woman to come to the station and, in front of the woman, asked Roshan to leave the house so that she could live in it. Roshan refused the SI Senevirathne's suggestion with saying that the house belonged to him and that he did not want to live with anyone who was having a relationship with other men. Roshan could do nothing but go back to his father's house, while the woman returned to his house.

A few days later, Roshan came to know that other men had begun to frequent his house and had stolen his poultry. Roshan made a complaint at the Police station where he was told by an officer to sort out the ownership of his house with the Divisional Secretary and to lodge a complaint regarding the poultry on the following day. Meanwhile, Roshan heard that the woman had left his house. He went home and changed the locks of the doors and returned to his father's house. On April 2, Roshan heard that the woman had broken the locks and entered his house. Based on this news, he went to his house and saw his personal property being loaded onto a tractor.

SI Senevirathne and a police constable known as Suranga attached to the same police station were also present. On seeing Roshan, the SI immediately ordered the constable to catch Roshan and assault him. Roshan ran away to his father's house but, the SI and the constable followed him and assaulted him in front of his father and his neighbours. The constable Suranga held Roshan, which enabled the SI to assault and kick him. Although he was frightened, Roshan's father asked them the reason for assaulting his son. At that, SI Senevirathne also assaulted Roshan's father who is 60 years-of-age. After the assault, the two officers took Roshan and his father to the Hikkaduwa Police station and put them in a cell.

After a while SI Senevirathne took Roshan out of the cell, pushed him into the floor and hit his head several times. Thereafter he made him to lie face down while the SI got on the top of his body and assaulted him with his fists and boots. Meanwhile, constable Suranga assaulted the sole of Roshan's feet with a chain which looked like a bicycle chain.

They assaulted him for about 15 minutes before returning him to the cell. Thereafter Roshan and his father were taken to the Arachchikanda hospital where the doctor asked Roshan's father if he was under the influence of liquor. Roshan's father denied it and said that he did not take liquor or cigarettes since he had a heart problem. He further told the doctor that they were assaulted by police. Then, the doctor asked the SI if both were in the same case. The SI stated that they were two separate cases. However, the doctor did not test or examine Roshan and his father but wrote something and gave it to the SI

Then, the SI took Roshan and his father to the place where the woman was living and made them stand on the road in front of her house, scolding loudly saying, “Look!, Both father and son are handcuffed”. The SI also slapped Roshan several times. Then, he took them to the Police station where he brought ganja and forcibly took Roshan’s finger print on it. Roshan was forced to sign a paper in which admitted his being in possession of ganja and he was not allowed to read what he signed. On April 3, Roshan was called before the OIC of the Hikkaduwa Police station to whom Roshan had explained what had happened. The OIC then indicated, “This is a typical case of our fellows. I will try to do something about it.” In the meantime, Roshan’s father was charged for acting under the influence of liquor and produced before the Magistrate’s Court Galle and bailed. He was informed by the police to be present before the court on April 8.

Roshan later was produced before the Magistrate’s Court in Galle where he was released on bail. After being given bail, Roshan was admitted to Karapitiya hospital to receive medical treatment for the wounds caused by the police assault. The JMO from the hospital examined him and hospital police recorded a statement from him. Roshan was discharged on April 5. On April 6, Roshan complained of the incident to the SSP, Galle and to the OIC Hikkaduwa Police Sation. On April 8, Roshan’s father attended the court as instructed by the police but found there was no such case on the given date. Roshan’s father also complained of this to the OIC of Hikkaduwa who instructed the police officer to give the correct date without harassing people.

### **229. Nuwan Chamara: Bare feet hit with a baton, fingers with a table leg**

According to the information received, at 10:15am on 28 March 2008, Katugastota police arrested Nuwan Chamara in Katugastota town on suspicion of stealing car cassettes. On March 29, the police took Nuwan to several shops to identify some productions and to his house where they took a tool kit.

At night on same day, the police officers who arrested Nuwan reportedly assaulted his bare feet with a baton and forced his fingers under one leg of a table and hit the top of the table. Nuwan further said that police officers removed his clothes making him naked and assaulted him. In the evening of March 30, the officers forced him to sign a statement which was not recorded or explained to him. On the next day (March 31), he was produced before the chief of Kandy Magistrate where his attorney-at-law specifically informed the magistrate about the alleged torture and illegal detention. The magistrate ordered Nuwan to be remanded until April 7 and also ordered the prison officers to bring him before JMO at Kandy hospital and to present the report on April 7. It also instructed Nuwan to make a petition of fundamental rights application to the Supreme Court.

The police officer who represented the Katugastota police before the magistrate told the defence lawyer who appeared that they are ready for anything. Nuwan was returned to the Bogambara remand prison.



### **230. Bolonnage Dinusha Udara Bolonna: Policemen have yet to be charged over the custodial death of a man**

*(Based on the testimony of the victim's wife)*

On 30 March 2008, between 6pm to 6:30pm, the victim, Bolonnage Dinusha Udara Bolonna was taken into police custody by Officer-in-Charge (OIC) Gekiyanage of the Bandaragama Police station. He was at the Bandaragama Veedagama area when the police took him on charges of allegedly harboring a fire arm. About seven officers, also including one Chandana Liyanage, took Dinusha Udara in a jeep to the Bandaragama police.

At about 7pm to 7:30pm that day, Chandana Liyanage telephoned the house where the victim's wife, Pradeepa Priyangani, was staying informing her to come to the Police station.

When Pradeepa Priyangani reached the Police station at about 8pm, she saw her husband sitting on the floor of the police detention cell. His hands were handcuffed behind his back while one of his legs was cuffed by the door of the cell. Dinusha Udara then told his wife to look for the house of Sampath. She was told that she would be able to find Sampath once she is also able to locate a person name Anusha.

The latter's house was near the Panadura new bridge. He said Sampath had a fire arm and that he should bring it and come. He further stated that he would be produced in court the following morning. Accordingly Pradeepa Priyangani, she and her child were also taken in a police jeep to the Wadduwa Police station. The Woman Police Officer (WPC), a police assistant who bears officer No. 84777, had accompanied them together with a police driver. In Sri Lanka, an officer can often be immediately identified by the officer number displayed in their uniform.

The jeep they were riding parked at the Wadduwa Police station for about one hour and later a police constable, who was also inside the jeep, received a phone call instructing him to proceed supposedly to get the firearm. They first went to the Anusha's house. The latter also accompanied them at about 11pm in going to the Sampath's house but he was not there at the time. Sampath's mother then took them to another place searching for Sampath.

The road heading to it was dark. Sampath's mother went there with his uncle. The location of the said house was not known. At the time, Pradeepa Priyangani stayed near the jeep with her child. However, when it took the group too long for them to return, officer No. 8477 had asked Pradeepa Priyangani to follow the group to check what the cause of the delay was. However, on her way she decided to return as she could not proceed because the place was too dark. Sampath, however, came with his mother and his uncle.

They then proceeded back to Sampath's house. After arriving, Sampath went inside their house and was seen carrying a lengthy white box as he emerged which he gave to the police. Then the police asked Sampath also to come with them. They all went back to Anusha's house. While they were near the temple they opened the box. Inside the box was a weapon wrapped with cloth. Pradeepa

Priyanganis says she does not know what it was, however, the WPC had told her that there was a T-56, a Chinese made firearm; and a Gal katas (Molotov cocktail).

Upon seeing what was inside the box, officer no. 8477 contracted some one by the phone apparently informing the person on the next line that they had found a T-56 and a Gal katas inside the box. They then closed the box as they all proceeded back to the Bandaragama Police station. At the Bandsaragama police station, the police officers took the box inside. It was about 3am the following day, March 31, when Pradeepa Priyangani requested them to allow her to see her husband, but the police told her that it was not possible for her to see him at that time. She was instead told to return at 7am. Pradeepa Priyangani was then sent to her uncle's house.

At around 7 am, Pradeepa Priyangani went back to the Police station to see her husband. The Reserve officer told her to wait until the OIC arrives. Pradeepa Priyangani, however, noticed that her husband was no longer in the police detention cell. She went to the canteen where she waited until 9am. While she was waiting there, she overheard a group of women talking that a person from the Veedagama area had been killed. She approach them asking if they knew whether the person was a man or a woman.

They told her they were unaware since no one was allowed to see the body. Pradeepa Priyangani was later asked by her uncle who came by a three-wheeler to come with him going back to their home. At home, her uncle told her that he has received information that the policemen have killed someone. Later, one of their neighbors came to inform them that the person the policemen have killed was Dinusha Udara.

At 10:30am to 11am of the same day, Pradeepa Priyangani went back to the Bandaragama Police station requesting them to register a complaint about what she has learned but she was refused. An officer told her that if her husband had done wrong there was no necessity to lodge a complaint. However Pradeepa Priyangani insisted for several times yet the officer did not take her complaint down. When a crew from a national television channel came to the Police station, they too were refused from seeing the dead body of the person.

When the relatives of Dinusha Udara returned to the Police station, they were told to proceed to the Bandaragama Hospital to identify the dead body. They, however, were not allowed to see the body until the Magistrate came at about 2:30pm to 3:30pm. It was only that time that Pradeepa Priyangani and her relatives was able to confirm that the dead body at the Mortuary, whose hands still have hand cuffs on, was her husband. The Magistrate told Pradeepa Priyangani to come to the Horana Court on 9 April 2008. She requested from the Magistrate that the death inquest should be not conducted by the Bandaragama Police station.

The body was then taken to the Pandura Hospital. The following day, April 1, the death inquest was carried out and the body handed over to relatives. In the death inquest, it was revealed that Dinusha Udara had sustained gun shots to his head and his mouth. Pradeepa Priyangani alleged that Nimal Karunaratna, OIC of the Wadduwa Police, was responsible for shooting and killing of her husband.

Nimal Karunaratna himself stated the he has been requested to help in the case by the Bandaragama Police station.

The case in relation to this, bearing Case No. 37933/08, was filed before the Horana Magistrates Court. On 15 July 2008, a recommendation has already been made that since it was evident to the court that the victim's death was suspicious, all evidence in connection with the victim's death should be referred to the Attorney General (AG).

However, since the said recommendation was put forward, there has not been any action taken. On 6 November 2008, Pradeepa Priyangani has written to the Attorney General requesting the said office the filing of charges against Nimal Karunaratna and other policemen involved; however, to date the AG has not taken any action so far. Prior to his death, Dinusha Udara was working in a screen printing shop. He has studied at a Buddhist school in Panadura Sri Sumangala Boys School where he has excelled up to the Advanced Level examination. In those days, during his free time, he usually gives a private tutorial in the subjects of Science and Sinhala language.

### **231. Sureen Kinson: Custodial death of young man**

According to the information received, at 6:30pm on 4 April 2008, Sureen Kinson left his house to meet a friend named Jude, but did not return home that night. At 9am on next day, Jude informed Sureen's grandmother that police officers attached to the Gampaha Police station had arrested Sureen and had taken him to the Police station. On receiving this information, Sureen's grandmother went to the station and found Sureen in the lock up room where she was able to speak to him. Sureen told her that while returning from Jude's house, he was arrested on 'suspicion'. However, he was not given any further details. Sureen's grandmother met with a lawyer at 10:30am who later informed her after visiting the Police station that Sureen would be released after the police officer took down a statement.

On April 6, when Sureen's grandmother went to the Police station, an officer told her that all officers concerned with her son's case had gone to the site of a bomb blast and asked her to return the following day. While she was waiting for the lawyer on April 7, an officer named Priyantha asked her to see OIC of Crime Branch. When she met the OIC Crime Branch, the OIC told her to see the Head Quarters Inspector (HQI). When she met this officer she was told that Sureen had committed suicide in the lock up room and asked her to go to the Gampaha Hospital and give a statement. She identified the dead body as that of her grandson in the hospital. She also witnessed wounds all over his face and a wire mark around his neck. Gampaha Magistrate Sahabdeen conducted the post mortem where she was asked to be present for the medical examination.

On April 8, she went to the office of the ASP in Paliyagoda where she made a report. On April 9, the medical officer, after the examination, told her that there were wounds on his head, back, right arm, left hand side, eye brows, and on the forehead. The officer further stated that there was a wire

mark around his neck and that it was difficult to judge whether the mark revealed that Sureen had committed a suicide. His body was handed over to her on April 9 and a ritual was held on April 10.

On May 5, she informed about this incident to the IGP, DIG Legal, CID, SSP and ASP in Gampaha, and various other authorities. However, no action had been taken nor had she received any response from the aforementioned officers.

### **232. Nanda Kumar and Ramesh: Police severely torture brothers**

Nanda Kumar, married with a child, was working as a security guard at the Tile Company, at the Board of Investment, Balagolla, Kandy. At 5:30pm on 17 April 2008, while on the way to his workplace he was arbitrarily arrested by officers attached to Kandy Police station without a warrant. After arresting him, the officers took him to their Police station and later transferred him to the Daulagala Police station on April 26.

Nanda's family members state that they have not been properly informed of his arrest by the police. Since he failed to return home, his relatives went searching for him. On April 20, when they went to the Teldeniya Police station to make a statement, the police told them they did not have any information and instructed them to come back the following day. It was only on April 21, when they returned that they came to know that the police in Kandy had arrested Nanda and his brother Ramesh. They then proceeded to the Kandy Police station on the same day. However, when they arrived at that Police station, an officer told them that the officer who had informed them of the brother's arrest was not present at that time and they were told to return the following day.

At 2pm that day, around 20 police officers from the CID in Kandy arrived together with Nanda in two jeeps and other vehicles. They started searching his house for something and then searched his mother's house as well, which is about a kilometre away. They conducted thorough searches of both properties without a warrant from a court and questioned his wife as to whether there were bombs or weapons in the house. When they failed to find any evidence from the two houses, the police officers instead took all the receipts from a pawnshop that the family had kept when they pawned their jewellery in order to travel to Tamil Nadu, India, for a religious worship in January 2008. The police officers told the relatives of the victims to bring some clothes for Nanda and his brother, Ramesh, who have also been arrested.

Ramesh had been arbitrarily arrested at around 2:30pm on April 19 by around five police officers also attached to Kandy Police station at a park in Aluthwatta in Digana town, Kandy. Ramesh is a three-wheeler driver whom the police accused of being a terrorist. The police took him to their Police station and later transferred him to the Katugasthota Police station on April 26. On April 28, the police transferred Nanda to the Daulagala Police station and on April 29, his relatives went to the Police station with a police officer attached to Kandy Police station. When the relatives met him, Nanda claimed that after being arrested, four or five police officers stripped of his clothes and that

he was hung to a ceiling after his legs were bound with string. While he was hanging upside down, the police had him beaten all over his body for an hour while questioning him.

Nanda's relatives visited him about 20 times there. The police, however, informed them that they could only visit him on Sundays and Wednesdays. Whenever a relative went to visit him they were prevented from talking in their own native language and a police officer always sat closely to monitor their conversation.

On May 16, the police produced Nanda and Ramesh before the Kandy Magistrate's Court. Despite Nanda informing the court that they had been tortured by the police, the court did not take action to investigate their complaints of torture. After the court, the police then took Nanda to Daulagala Police station and his brother Ramesh to the Katugasthota Police station. On June 1, when the relative went to Daulagala Police station to see Nanda, he said that he asked for some medicine for his headache from the police but police said they would need permission from Kandy Police station. There two officers told the relatives about Nanda's health condition and told them that he was showing signs of a psychological disorder, stomach problems and fever. They also said that he often lost consciousness and is displaying strange behaviour; for instance, sleeping naked; and could no longer remember what he was doing while in police custody.

At 10pm on May 27, Ramesh was again transferred back to the Kandy Police station where he was allegedly beaten by around eight police officers. Ramesh said the police had the soles of his feet and his ears beaten with an iron bar. The police officers too, like they had done to his brother, stripped off his clothes he was naked. They, grabbed, pulled and hit his sex organ repeatedly with their hands causing him severe pain. The officer also pulled out his moustache and hair from his chest while questioning him.

On May 28, Ramesh's relatives visited the Police station but were not allowed to meet him and were chased away by the police telling them: "bring the food and go". When they went to the Police station again on June 1, the police told them that he had already been transferred back to the Katugasthota Police station.

When they reached the Katugasthota Police station, they were told that they needed to secure permission from the Kandy Police station first before seeing him, or wherever he was being held. His relatives also said that every time they come to the Police station, the policemen too labeled them as terrorists. The police had also threatened them that they could also be arrested under the Emergency Regulations, including Ramesh's two-year-old child.

**233. Rengasami Chithrakumar: Police allegedly torture a man during interrogation**The Asian Human Rights Commission (AHRC) has received information that police arrested and took a man to a Police station, where they allegedly tortured him during the interrogation.

*(Based on the information received from Sathivel Bawani, the victim's wife)*

When Mr. Rengasami Chithrakumar, a driver of three-wheeler failed to come home, his wife, Sathivel Bawani went out to search for him on April 18, 2008. Bawani came to know from witnesses working at a vehicle service centre at Digana, that police officers in civil clothes had taken Chithrakumar while he was at the centre. She made an entry at the Teldeniya Police station at around 9pm about the disappearance of her husband. She then went to the Kandy Police station on April 19 and 20, but could not find out anything about him.

At 2pm on April 21, 2008, officers attached to the Regional Intelligence Unit of the Kandy Police station searched her house. The officers informed Bawani that her husband was detained at the Kandy Police station after his arrest. They also said that if she could produce Gajendra Kumar, Chithrakumar's brother-in-law, they would release her husband.

Chithrakumar was detained until August 8, 2008, when had was charged with setting off a bomb on a bus and sent to Bogambara remand prison. After he was transferred out of police custody he admitted that he had been severely tortured from the day of his arrest.

Bawani also alleges that her husband was severely tortured under interrogation and forced to sign some papers, the contents of which he was unaware of. When there were interviews, Bawani and his family members were allowed to speak only in Sinhala, a language that Bawani, who is Tamil, barely knows. She is not sure whether Chithrakumar was examined by a Judicial Medical Officer at the Kandy General Hospital, but she witnessed scars on his face, hand and feet.

Chithrakumar is currently produced in court twice a month at Teldeniya Magistrate court in Kandy. The charge sheets have not been presented but the facts have been reported to the court by the Terrorist Investigation Division (TID), attached to police headquarters in Kandy.

#### **234. Janaka Pradeep Kumara: "I will break his bones and produce him at court"**

Having received an order from the Police station, Janaka Pradeep Kumara, a 14-year-old student, went with his father and mother to Deniyaya Police station to give a statement regarding the loss of a cell phone on 28 April 2008. At the CID section in the Police station, a police officer took Pradeep inside a room along with a man named Ananda who resides the Deniyaya area and came out after about 10 minutes. The police officer said to Ananda, "This fellow had not taken your cell phone. It is your responsibility to safeguard your phone. It shows your carelessness. We cannot do anything and you had better to make an entry of losing your phone." Meanwhile, Pradeep and his parents were waiting for an officer to take down his statement.

Suddenly, another officer, SI Wimalakeerthi came and took Pradeep by the hand with saying, "Are you the man?" and took him inside the room again. When Pradeep's mother attempted to follow them, the SI Wimalakeerthi ordered her to remain outside. However, as they were concerned,

Pradeep's mother Gamage Indrani went inside where the SI had taken Pradeep and saw that the SI was holding Pradeep by his shirt collar and slapping him. On seeing the assault, Indrani shouted at him not to hit Pradeep. Then, the SI told her, "If you want to take him away, pay the value of the phone. Otherwise, I will break his bones and produce him at the court tomorrow."

In order to prevent Pradeep being assaulted again and avoid him to be produced before the court, Indrani decided to pay the value of the phone. But, Pradeep shouted, "Do not pay any money for a thing I have not done. If you are paying, it means we are admitting." Pradeep also told the Inspector of Police not to accept the money saying, "If you take the money from my mother, it means that you are turning me to a culprit for a crime I have not committed. Hereafter, I would not [be allowed to] attend school and would commit suicide."

However, with the intention of saving Pradeep, Indrani paid Rs. 6000 and asked for a receipt. SI Wimalakeerthi refused to give her a receipt and threatened to remand them including his parents. Pradeep started shouting at mother with saying, "You paid money, now I have become a culprit." After being released on at 4:45pm on April 28, he went to a hotel, swallowed sixteen tablets of Panadol. He also tried to jump from the top of a building but was prevented by other people.

At 6pm on the same day Pradeep was admitted to Deniyaya hospital due to the overdose. As his condition deteriorated he was transferred to Karapitiya Hospital. Although Pradeep survived he suffered mental trauma from this incident. He was discharged from the hospital on May 4. His parents submitted a complaint to various local authorities on May 6.

### **235. Wengappuli Arratchige Milan Chanaka: Police assault and falsely charged five men**

*(Based on the testimony of one of the victim's father)*

On 1 May 2008, Wengappuli Arratchige Milan Chanaka, an army officer from the Army Commando Unit at Vavuniya, went to the Kataragama bus station in order to meet someone there on his motor cycle. He was on official leave at the time. On his way, a Woman Sub Inspector (WSI), crossed in front of him on the road on which he was travelling and prompted him to stop.

Before leaving for the bus station, Milan asked the said police officer, "Is that the way for you as a police officer to cross the road?" While he arrived at the station to meet his friend he saw the female police officer, who came later together with two other police officers, approaching him. As they tried to take him to their police station without explaining the charge, he resisted, telling them "I am innocent" before he returned to his home.

Between 2pm to 3pm that day, 15 heavily armed police officers attached to Kataragama Police station came to the house of Milan's father, Wengappuli Aratchige Siripala. Out of the group, Siripala recognised two of them as Sub Inspector Amaradivakara and Sergeant Lalith. As soon as the officers reached the house, they arrested his two sons, Milan and Gayan Chaminda, as well as three

of Milan's friends who were present at the time, once again without giving them any reason. They severely assaulted the group for about 20 minutes inside the house.

When some of their neighbours saw them being assaulted, they tried to intervene and the police also assaulted them. Then, the officers dragged the brothers towards a road where they had parked their police jeep and forcibly put them into the vehicle. The father, Siripala, went to the Kataragama Police station where his two sons had been taken but he was not allowed to meet them. However, he was able to meet them later following the assistance of Sub Inspector Bandusiri, a police officer attached to Ambalanthota Police station.

On May 2, all five arrestees were produced before the Thissamaharama Magistrate's Court. The police filed charges against them for sexual harassment, attack on the police officer, obstruction of police duties and supposedly for being deserters. All of them were sent to the Tangalla prison. As the injuries of Milan and his brother Chaminda worsened while they were in prison, the prison officers sent them to Hambanthota Hospital for treatment on May 6.

On May 14 all of them were released on bail. Milan returned for duty to his army company on May 17. However, the following day, Milan was once again admitted to the Anuradhapura Hospital for two days.

Their relatives have already submitted a complaint to the concerned authorities, including the Inspector General of Police (IGP), Senior Superintendent of Police (SSP), the Officer-in-Charge of the Kataragama Police station, the National Police Commission (NPC) and the Human Rights Commission of Sri Lanka (HRCSL) on May 12.

They have also sent their affidavits to the Chief Justice on May 22. Despite filing their complaints no action has been taken on this case so far. After the incident, the relatives of the brothers claimed that the two were showing signs of psychological disorder since the assault. They are also worried that the charges the police filed against Milan may also affect his job.

### **236. Kathiravelu Sathyawan: Forcibly taken away in white van**

On 1 May 2008, 18-year-old Kathiravelu Sathyawan had gone to a friend's place where he spent time playing a board game. Soon after, several persons, who were described later by witnesses as officers from the CID, arrived. They were travelling in a white van and accompanied by another person on a red motorcycle. At around 10pm to 11pm the said officers approached the victim and forcibly took him away towards their van. Kathiravelu's friends witnessed the incident.

The following day, May 2, Kathiravelu's friends informed his parents about the incident. At about 5pm, Kathiravelu's mother, Subramaniam Mariamma, went to the Katharagama Police station to report her son's forcible abduction and subsequent disappearance. However, the police officer who was on duty had scoffed at her and refused to record her complaint which is in direct contravention of the regulations laid out in the Sri Lankan Police Orders. She was told: "Your son must have



eloped with a girl. You can make some inquiries”. The said police officer, too, did not record her complaint.

For several days, from May 3 to 5, Kathiravelu’s parents had repeatedly made follow up visits to the Katharagama Police station about their son’s case. However, the police, in contravention of the aforementioned regulation, repeatedly refused to register the complaint on the pretext that their son could have just eloped with a woman. They also did not help them either in locating their son’s whereabouts or obtaining information about his case. It was only in May 6 that the police had finally accepted their complaint and allowed her to make a short entry. The police recorded the complaint and had it signed by Kathiravelu’s parents. However, they never allowed the couple to read or explained to them what was written in the police entry.

Prior to his disappearance, Kathiravelu’s parents recounted that there have been several occasion wherein unknown persons, who had introduced themselves as the officers attached to the CID in Katharagama, had come to their house. They asked details about the family, particularly about Kathiravelu. On May 8, when Kathiravelu’s parents went to the Katharagama Police station, they were told that some of the police officers had come to their house while they were away. They had conducted searches and took a photograph of Kathiravelu. On the same day also these persons had gone to Janadhipathi Vidyalya where Kathiravelu was studying and had inquired from his school principal about him. When Kathiravelu’s parents heard that their son had been detained at the army camp near the Katharagama Depot, they proceeded to the place but he did not find him there. They likewise did not get any information about him.

Kathiravelu’s parents filed a complaint about his forcible abduction and subsequent disappearance with the IGP, DIG Legal, SSP of Hambanatotota, OIC of the Katharagama Police, HRC, NPC and the Special Unit of the Ministry for Disaster Management and Human Rights.

### **237. Wengappuli Arratchige Milan Chanaka: Police assault and falsely charge five men**

On 1 May 2008, Wengappuli Arratchige Milan Chanaka, an army officer from the Army Commando Unit at Vavuniya, went to the Kataragama bus station in order to meet someone there, on his motorcycle. He was on official leave at the time. On his way, a Woman SI (WSI), crossed in front of him on the road on which he was travelling and prompted him to stop.

Before leaving for the bus station, Milan asked the said police officer “Is that the way for you as a police officer to cross the road?” While he arrived at the station to meet his friend he saw the female police officer, who came later together with two other police officers, approached him. As they tried to take him to their Police station without explaining the charge, he resisted, telling them “I am innocent” before he returned to his home.

Between 2pm to 3pm that day, 15 heavily armed police officers attached to Kataragama Police station came to the house of Milan’s father, Wengappuli Aratchige Siripala. Out of the group,

Siripala recognised two of them as SI Amaradivakara and Sgt Lalith. As soon as the officers reached the house, they arrested his two sons, Milan and Gayan Chaminda, as well as three of Milan's friends who were present at the time, once again without giving them any reason. They severely assaulted the group for about 20 minutes inside the house. When some of their neighbours saw them being assaulted, they tried to intervene and the police also assaulted them. Then, the officers dragged the brothers towards a road where they had parked their police jeep and forcibly put them into the vehicle.

The father, Siripala, went to the Kataragama Police station where his two sons had been taken but he was not allowed to meet them. However, he was able to meet them later following the assistance of SI Bandusiri, a police officer attached to Ambalanthota Police station. On May 2, all five arrestees were produced before the Thissamaharama Magistrate's Court. The police filed charges against them for sexual harassment, attack on the police officer, obstruction of police duties and supposedly for being deserters. All of them were sent to the Tangalla prison. As the injuries of Milan and his brother Chaminda worsened while they were in prison, the prison officers sent them to Hambanthota Hospital for treatment on May 6. On May 14 all of them were released on bail. Milan returned for duty to his army company on May 17. However, the following day, Milan was once again admitted to the Anuradhapura Hospital for two days.

Their relatives submitted a complaint to the concerned authorities, including the IGP, local SSP, OIC of the Kataragama Police station, NPC and HRC on May 12. They also sent affidavits to the chief justice on May 22. No action had been taken.

### **238. Malik Roshan Wijyaratne: Police severely torture a young man in custody**

At about 3pm on 2 May 2008, SI Dammika and Sgt Jayalal, both attached to the Kekirawa Police station, had taken Malik Roshan Wijyaratne into their custody at the station. He was taken on pretext that he was supposed to identify someone at the station. Malik went to the Police station on his motorcycle with Jayalal who sat behind him. When they arrived at the Police station, the officers checked Malik's motorcycle. When SI Dammika came to the place, he suddenly slapped Malik's face and questioned him about a cassette and a phone that he was not aware of. Then, the officers took him to a place they described as the 'conference hall', an empty space inside the Police station. There, they forcibly removed Malik's shirt and tied his hands with it. They bend him over and inserted a wooden pole between his legs and arm. Then they put both edges of the pole on two separate chairs thereby suspending him.

While Malik was in this position, the soles of his feet and body were beaten. After some time, he fell down to the floor when the shirt that was used to tie him loosened. He remained unconscious from the fall for some time. Then, Sergeant Jayalal poured petrol from a polythene bag he was holding into Malik's face to awaken him. Malik, who was already in immense pain at the time, had asked for water from the policemen. The police, however, ignored his plea and forced him to stand up. They ordered him to jump up and down for several times. When he was unable to perform the order, the

officers removed his belt and used it to beat his back. The policemen again asked him to run around the said empty space. Malik tried doing what the policemen had asked him to do because he was frightened but he could no longer run.

At 6:30pm, police officers brought him to the CID where the police made him sit on a bench. Before going out, they told Malik that they were going out for a drink and would be back in a few minutes. At the time also, Sgt Jayalal had slapped him. When the other officers had returned at around 10pm, they ordered him to perform what he had done earlier. At about 10:30pm, Malik's mother went to the Police station with his uncle to see him. When they arrived, the policemen then ordered them to take him with them on a motorcycle and to leave the Police station. But before leaving, the police made him sign a statement, which was already prepared by the police, but the contents of which were not revealed to him.

At 4:30pm on May 4, Malik was released from police without having been produced before the court. Immediately after his release, he was taken to the Dambulla Government Hospital for medical attention. After the incident, Malik continuously suffered bleeding from his nose and mouth. On May 11, Malik's father, B.G. Michael Edward, went to the Kekirawa Police station to register a complaint regarding the arbitrary arrest, detention and torture of his son; however, the police refused to take his statement relating to the police torture in contravention of the police orders, sections A-3 and C-1.

Malik's relatives submitted a complaint to the IGP, DIG North Central Province, HQI of Kekirawa Police station and other authorities on May 17. They also sent affidavits to the chief justice on May 22.

### **239. K.R.P. Nilantha Kumara and Chathuranga: Emergency surgery after torture**

On the night of 5 May 2008, Kandagoda Rajapaksa Pathirnalage Nilantha Kumara and Chathurangawere among the guests at a wedding party in their neighborhood. An argument arose between the hosts and some of the guests and it developed into a brawl. Goods in the house were smashed and three motorcycles belonging to the guests were torched.

The Elpitiya police were informed by the hosts and arrived at the scene. Nilantha, who had gone home by then, was told by a friend that Chathuranga was being assaulted by the police. Nilantha and a friend went to the scene. They did not see Chathuranga but instead were given chase and caught by the police, who severely beat Nilantha at the time of his arrest while his friend escaped.

Then, the officers took Nilantha to a police jeep where his trousers and shirt were stripped off. His hands and feet were tied together with a piece of wire on the floor of the jeep. The officers beat Nilantha's entire body using their hands, feet and some poles. He was taken to the Elpitiya Police station where Nilantha saw his friend, Chathuranga in a cell. They attacked Nilantha for the third time and put him into the adjoining cell.

On May 6, Nilantha was feeling very sick and pleaded with the officers to take him to the hospital for treatment. His request was denied. When he continued to ask, a female Constable Officer threatened him and told him to stop being a nuisance. In the morning, the mothers of Chathuranga and Nilantha came to the police station bringing them food. They saw their sons locked up in two adjoining cells but they were not allowed to speak to them. The officers scolded them and chased them away saying sarcastically, "It is not necessary to bring food. We will give them food and some good medicine too".

Only later was Chathuranga's mother allowed to give him the food they had brought and speak to the boys. Chathuranga and Nilantha then told her that they had been assaulted by the police and were unable to take any food. They asked her to request the authorities to hospitalize them. Subsequently an officer named Balendra opened the cell, grabbed Nilantha by his abdomen and asked him to come to get medicine.

The officer took Nilantha to a room inside the Police station where he demanded Nilantha strip completely and lie face down on the bed there. The officer tied both Nilantha's hands and legs. Another officer named Batuwatta, who had also previously beaten Nilantha, stood on his legs, while officer Balendra beat the soles of his feet with an iron pole and a cinnamon stick. As Nilantha screamed in pain and begged them to stop hitting him, the officers began to ask him about the incident at the wedding. They particularly wanted information about who was responsible for setting the motorcycles on fire.

When Nilantha screamed that he did not know anything about it, the officers started beating him for the fifth time. Officer Balendra said that Nilantha was telling lies. He took a bag filled with petrol and tied it around his head, completely covering his face. After some time, he took it off and pressed Nilantha to tell the truth. Then, Nilantha was told to sit on the floor and hunch up his knees and keep his tied hands around them. The officer inserted an iron pole between his knees and hands and lifted the pole and wedged it between two beds. Then the officers standing on either side of him alternately struck the soles of his feet with poles.

After a while they took him down, untied his legs, and took him to a nearby washroom where they doused him with water. Thereafter, he was taken back to the room and assaulted for the seventh time. Later, Nilantha was taken down and his feet were untied. His hands were however, tied with a rope behind his back and he was hung from a beam on the roof and assaulted once again. After about five minutes, he was taken down and received blows to his chest, stomach and the rest of his body.

Chathuranga was also brought in and roughed up in the same manner. While Chathuranga was assaulted, Nilantha was forced to keep jumping. Chathuranga was also taken to the washroom where water was thrown on him and brought back and assaulted again. After that, Chaturanga and Nilantha were both hung from the roof beam while their hands were tied behind their backs and assaulted. This was the tenth beating for Nilantha. It was about 4pm when they were told to put

their trousers back on and return to the cell. Half an hour later, officer Balendra took them out of the cell to record their statements.

At 3pm on May 6, Chaturanga's mother went to see her son at the Police station. Nilantha's mother was also there and they were told by the officers that the boys had been taken to water the garden. They waited outside till about 4:30pm and went into the Police station again where they saw a police officer taking statements from them. They also saw that their sons were dripping wet but wearing trousers that were not wet. They saw that their sons' bodies were swollen all over.

When officer Balendra saw the mothers, he shouted at them to come inside and sit down near the boys since they too were involved in the wedding party case. The mothers saw that the boys appeared to be unable to stand straight but nevertheless the officer kicked them and shouted at them to stand straight. The officer stomped on Nilantha's feet and shouted at him to stand straight. After the statements were completed, the boys were forced to sign them. They were put back into the cell without being allowed to see the contents of their statements. Chaturanga's mother was later allowed to see her son and she asked him why they were soaking wet. He replied that they had been cruelly assaulted, tortured and had been doused with water in order to revive them.

Later that evening, May 6, Chaturanga and Nilantha were taken out of the cell and ordered to slap each other. However, officer Balendra said that they were not doing it hard enough and started slapping them himself. A little while later, the officer told them to do likewise until one of them lost consciousness. The boys were threatened into doing this until Nilantha fainted. The officer threw some water on his face and when Nilantha regained consciousness, he told him to continue until 7pm. Then, they were put back into the cell. As Nilantha tried to drink some water from a bottle in the cell, officer Batuwatte immediately grabbed the bottle from him.

At around 9pm, they were taken to the Elpitiya Hospital but no doctor there examined them. Then they were brought before the Magistrate at his official residence. Officer Balendra threatened them not to talk. When the Magistrate asked them why their feet were swollen, the officer told the Magistrate that the boys had been beaten up badly at the wedding. The boys were too frightened to speak up due to the fear of being assaulted again.

After this, they were taken to a prison near the Elpitiya court house. Nilantha was in great pain and he shouted to be taken to a hospital. An officer then gave him some medicine. Later that night, Nilantha started to vomit blood and was taken to the Elpitiya hospital. From there he was rushed to the Karapitiya Hospital where emergency surgery was performed on his stomach. He was hospitalized under guard.

Nilantha was treated in ward No 9 of the Karapitiya Hospital from May 6 to 18. He told all the doctors who examined him that he had been assaulted by the Elpitiya police. However, the hospital police did not take any statement from Nilantha.

During Nilantha's hospitalisation, officer Balendra came to see him and said, "For lies, you were assaulted." The officer furthermore made the statement that, "We will give you bail on the 27th" and with that he gave Nilantha his mobile phone number and left.

On May 18, Nilantha was taken to the Galle prison where he received medical treatment until May 22. He was taken to the Karapitiya Hospital clinic once a week. On May 22, he was produced in the Elpitiya Magistrate's Court and released on bail. Charges were also imposed on them that they had displayed fire arms, assaulted and injured people, damaged goods in the house, and torched three motorcycles.

While the two were in prison, their mothers reported this incident in a written complaint on July 1. Nilantha reported this case of torture in a written complaint on August 5 to the relevant government authorities such as the HRC, NPC, IGP and DIG General Southern Province, Galle.

#### **240. Ramiah Ruba Sandran: Tortured to confess to being a terrorist**

On 7 May 2008, Ramiah Ruba Sandran was asked to come to the Balagolla Police station, where he was questioned and released. On May 10 he was again requested to come to the Police station where he was held overnight before being released the following day. He was repeatedly questioned as to whether he was involved in terrorist activities. On May 13, on his way to work, officers attached to the Balagolla Police station forced him into a cab and took him away.

On hearing about his abduction, his relatives went to the Balagolla Police station where officers denied that he had been arrested. They returned the following day and were again told that Sandran had been arrested. When his relatives went to the Police station the following day, now the third visit, they were told that he was being held in the Kandy Police station. However, when they attended that Police station his relatives were not permitted to see him.

On May 17, he was brought to his home in handcuffs. The accompanying officers searched the house for weapons during which time the family saw him being kicked and beaten by police officers, including IP Nishantha of the Kandy Police station. The family also noted that the police were under the influence of liquor at the time. Finally, on May 19, his brother was allowed to see him but was ordered to speak only in Sinhala.

On July 23, his brother, wife and 19-year-old daughter were asked to come to the Kandy Police station. At the station, the wife and the daughter were taken into a room and made to stand in front of Sandran. The officers threatened that they would arrest his wife and daughter if he did not confess that he was a terrorist. The relatives stated that he appeared very pale and was crying. He was forbidden to speak about his torture.

It is reported that, during the entire period of his detention of four months, he had never been examined by a JMO. He was produced before a court in the first week of September and subsequently detained at the Kandy Police station. On September 19, he was arraigned before the Kandy Magistrate's court where his detention was extended until September 22, with no charges till then laid against him.

185. Maddumage Dharmadasa: Hung from ceiling by toes and beaten with baton and rubber pipe

At 5:30pm on 13 May 2008, four officers from the Sigiriya Police station went to the house of Maddumage Dharmadasa asking him whether he had been given money by a person called Premadasa. When he denied either knowing the said person or receiving money from him, the policemen took him to the station supposedly to obtain a statement from him. The following morning, after Dharmadasa had failed to return home, his wife and mother went to the Sigiriya Police station looking for him. The two waited for almost an hour before being assisted. Eventually, one of the policemen, whom they recognised as one of those who had arrested Dharmadasa from their house, approached them and took them towards the back portion of their Police station where the victim was being held. There, they found him lying on the ground and saw that he could not speak properly. The police officer told them that they had given him only a few slaps for not telling them the truth.

Meanwhile, despite experiencing difficulty in talking, Dharmadasa managed to tell his family members that the policemen had stripped off his clothes, hung him from the ceiling by his toes and had then beaten him with batons and rubber pipes all over his body. He further stated that they assaulted him twice in the same manner during the night. Dharmadasa said that there were four officers of the Sigiriya police station, who were responsible for torturing him, but he only identified two of them, namely Sergeant Ekanayake and Ariyawansa. The two were wearing plain clothes. He further claimed that after having been beaten he was forced to sign a blank paper and had been warned against telling anyone about what had happened to him.

When they released Dharmadasa from their custody, the police officers told his family not to take him for medical treatment but to take him home directly. As they were frightened of what could happen to them if they did not follow the police orders, they took him home. However, when Dharmadasa's condition worsened, they took him to a private hospital close to their house where the victim had obtained treatment.

With the fear and shame Dharmadasa had suffered following the incident, he took poison in an attempt to commit suicide. His life was saved but the extent of his injuries due to the poison could not be immediately ascertained. Soon after, he was then taken to Dambulla hospital where he was admitted in ward number 7. Upon having been informed about the incident, local human rights groups had Dharmadasa transferred from Dambulla Hospital to the General Hospital of Matale for further treatment. While he was at the Matale Hospital some local activists had him presented to a JMO to get a Special Medical Certificate.

The alleged incident of torture was brought to notice of the HRC, NPC and SP of Matale. The police superintendent's office of Matale likewise forwarded the complaint to the Dambulla Superintendent's office. On May 23, the Dambulla office took up the case requiring a Special Medical Certificate for judicial action which was also provided.

Dharmadasa had not been able to fully recover from the injuries he sustained from the torture by the police. Though his bruises healed, he was unable to move his arms and legs normally as before and unable to do any work.

#### **241. Uswatte Liyanage Stanley Senaviratna: Torture victim suffers hearing loss following assault**

On 17 May 2008, four officers attached to the Excise Station of Panadura went to the house where the victim, Uswatte Liyanage Stanley Senaviratna and his wife, Wijesuriya Arachchige Dona Shirani, were living. The said officers were looking for Stanley, who reportedly sells prohibited liquor, but he was not there. Shortly after the officers left, Shirani saw her husband being assaulted by the officers when she heard some noise near their house. She ran to the scene and begged the officers to stop assaulting her husband. However, the officers ignored her and continued beating him. Shirani, however, was able to recognize three of the four officers and remembered that they were noted as drug addicts. These officers assaulted her husband with poles. They also punched and kicked him.

After beating Stanley, the Excise Officers then demanded from him bottles of prohibited liquor that he was reportedly selling. He gave them two bottles of arrack. As he passed on the money worth Rs. 850 from his pocket to his wife, one of the officers forcibly took the money from her by suddenly thrusting his hand into her blouse where she had kept the money. The same officers then took Stanley into their vehicle towards the Excise Station of Panadura. Shirani then followed them by taking a three-wheeler. Stanley, however, was released on bail from the officer's custody and went back home on the same day. The officers though warned him from going to hospital to get medication for the injuries he sustained following his arrest. They also told him to return to the Excise Station on the following day.

As Shirani and Stanley went to the Excise Station on May 18, the OIC sent Stanley outside the room. He then took another officer in order to forcibly take Shirani's finger prints from about ten bottles of prohibited liquor. When Shirani refused to do so, the officers threatened her that they would assault her husband once again if she refuses to comply with their order; thus, she had no choice but to cooperate with them. The OIC summoned Shirani into his room and told her that he could arrange for some settlement or relief on her husband's case if she would closely follow his orders and cooperate with him.

The OIC asked her to come close to him and when she went, she was told, "I will put you into a job. But, you must send your husband to work everyday. Do not keep him at home. And you must keep the phone near you." Shirani then realized that the OIC was giving her ugly messages in an



attempt to take sexual advantage of her and the situation. On the same day, Shirani went to the Panadura South Police station where she met the HQI. There she filed a complaint about the assault of her husband and about the officer who attempted to take sexual advantage of her. The HQI then referred her case to the 119 Police Squad who recorded her statement.

On May 19, Stanley had himself admitted to the Panadura Hospital. There, Stanley and his wife Shirani described the story of physical torture that the Excise Officers had perpetrated on the victim to the doctor examining him. The medical examination revealed that he suffered from hearing loss after his ears were seriously affected by the assault.

On May 21, Stanley was discharged from the hospital. On the same day also, Shirani lodged complaints about her husband's arrest and subsequent torture before the Commissioner General of Excise, the HRC and IGP. However, there had not been any substantial progress so far regarding any action taken by any of the authorities.

#### **242. Solomons Caspas Poul: Police continuously detain and torture a man arrested without charge**

Sometime during the months of April this year, four police officers attached to the CID in Colombo went to a house where the relatives of the victim, Solomons Caspas Poul, were residing. The officers asked his relatives of his whereabouts as they were searching for him and they told them that Poul was staying with his wife in Nawalapitiya. The police left shortly after.

At 9pm on 30 May 2008, six police officers attached to the Theldeniya Police station, three of them were wearing plain clothes, once again came back asking Poul's sister and his mother of his whereabouts. Once again they told the policemen of where he was staying. At 7am the following morning Poul's sister received a phone call from his wife telling her that the police had arrested Poul at 2am that morning but she did not know where he had been taken. Then at 4pm, Poul's wife called again to say that he was being held at the Nawalapitiya Police station. They were then asked to go and see him there. At 8:30am on June 1, Poul's sister and his younger brother went to the Nawalapitiya Police station. However, the police officers did not allow them to speak with him. When his sister asked a police officer whether he would be transferred to another place, she was told he would be transferred to the Theldeniya Police station in two hours.

At 11:30am, three officers attached to the Theldeniya Police station arrived and took him from the custody of the Nawalapitiya Police to their station on a public bus. The victim's relatives took the same bus, but when a police officer recognised them, he confiscated the mobile phone of Poul's sister, telling her that he would return it once the bus reached the town of Kandy, which he did. Poul told his sister to come to the station to see him. At 2:30pm, when Poul's sister and mother went to the Theldeniya Police station, he told them that he had been beaten by policemen attached to the Nawalapitiya Police station whilst he was in their custody. They had beaten him on the head

and on his hands for about an hour with a police baton and some plastic material. When Poul said he was in pain, his sister gave him some painkillers and medicinal oil.

Upon learning of her brother's experience while he was in the custody of the Nawalapitiya police, she asked the policemen at the Theldeniya Police station not to beat him, to which they have agreed. They also claimed that they did not beat prisoners in their Police station. Getting this response, his sister and mother gave him some food and went home at around 5:30pm. At 8am on June 2, when his sister and mother went back to the Police station, they saw Poul being subjected to questioning by a police officer inside a room. When they were able to speak with him Poul was crying. He told them to look after his wife who was eight months pregnant as he had been told he would not be released for three or four months.

A police officer, who was wearing plain clothes and one of those who were questioning the victim, asked the victim's sister to come and see him to another room inside the said Police station. There, there were three men who had asked her whether she also had any involvement in "terrorist" activities. When she denied it, they pressured her to say something relevant about the said activities. This time, the police officer told her that the reason why they arrested her brother was that he had been to Kilinochchi, in the northern part of Sri Lanka, sometime in 2003 together with his friends. Though the police claimed that they knew Poul was knowledgeable about firearms and that he is supposed to have been involved in terrorism, they could not provide any credible evidence nor substantiate the allegations.

After the questioning was completed, his sister asked Poul about the allegations the police have made against him and he told her that he went there only to visit the relatives of his friends. He also said that he only stayed there only for three days. He told his sister that at that point in time he had not been beaten by the policemen at that station. She gave him some food and medicine before leaving. When the victim was visited again at the Police station on June 3 by his relatives at around 8am, they saw him lying on the floor half naked. When his sister tried calling him, he could not talk properly prompting them to ask him what had happened. The victim made the following statement:

"At 2am today (June 3), around 6 persons in civil clothes having been drunk beat me and tied up my legs and hang me on the ceiling. Then, they tied up my hands as well and severely beat me for about 2 hours. They especially hit my head, arm, head and the sole of my feet. I can't move my left arm due to the assault".

Poul could no longer walk properly. Later his sister gave him some food and medicine but he could not eat it by himself because of the severity of his injuries. Then, his sister informed a police officer, whom they have identified as Dissanayake, about the incident. When asked by the said officer, Poul told him that he had been tortured, but the policeman nevertheless ignored him saying that they had never tortured him. He instead gave his name card to the victim's sister telling her of his brother: "Poul has a weapon, ask him to hand over the weapon to the police. If there is any information regarding the weapon, immediately contact me". When asked whether they would be releasing Poul or taking him to a court, the same police officer told her: "At the moment, we will neither bring him

to the court nor release him. We will keep him for further investigation.” After learning this, her sister had to ask this police officer again not to torture her brother anymore.

Poul’s sister later asked him whether he had any weapon and he told her he was not aware of what the police are accusing him of. He told her that the police had been putting pressure on him to admit that he had a weapon and that he has had connection with terrorists.

**243. June 23<sup>rd</sup> incident relating to Sugath Nishantha Fernando (assassinated 20<sup>th</sup> September 2008): Men allegedly with the backing of police threaten petitioners to withdraw case**

Sugath and his wife, Sandamali Padmi Peiris are petitioners of a fundamental rights case before Supreme Court, Negombo (Case No. FR. 446/07). They had been allegedly tortured after illegal arrest and detention by 12 police officers attached to the Negombo Police station. Sugath had earlier made a complaint against Inspector of Police (IP) Mahagamage Dramadasa for soliciting a bribe of Rs. 5,000 (USD 46) about which the Bribery Commission has made inquiries and filed a case before the High Court of Colombo (Case No. B/1658/2006).

According to the information received, at 11am on 23 June 2008, the couple hired a three-wheeler (trishaw) bearing number 205/8025 driven by a driver called Ajith and were on the way to the Negombo Hospital to get treatment for Sugath's wife. While the three-wheeler was waiting for a traffic signal near the Dalupatha Bridge on Colombo-Chilaw main road, four persons of two of whom Sugath identified as Niroshan and Namal stopped the three-wheeler. Niroshan and Namal asked the couple to withdraw the case which is currently pending at the Supreme Court, Negombo before evening of the next day (June 24). They said if Sugath did not withdraw the application, they will kill them all. They further said that they had permission to do so from the Negombo police. Due to fear, the couple returned home without going to the hospital. Just after the couple returned home, the four persons came to the gate of the house and started banging on it and shouting that they would kill the couple if the couple did not withdraw the case. Sugath did not open it but could identify the four persons through the gate the same men as he met near the bridge. Two unidentified persons were just staying without shouting or banging the gate.

The couple went to the office of Deputy Inspector General (DIG) in Paliyagoda where they met Mr. Sarath Jayassoriya, DIG whom instructed Assistant Superintendent of Police (ASP) Jagoda Arachchi and Officer-in-Charge (OIC) Samarajith to take immediate action. Then the couple made a complaint to Paliyagoda Criminal Division regarding the death threats (No. SIIB 345/266) on June 23. Those who made death threats to withdraw the case are known to the couple as persons of criminal background usually hired for criminal activities after their release. The couple believes that these threats have been made at instigation of police officers who are respondents in the fundamental rights application. All members of the family are now living in a fear of further harassment or death threats while in pursue of getting justice.

*Additional details:*

S.K.A.S Nishanta Fernando, made a complaint against an Inspector of Police (IP) who solicited a bribe of Rs. 5,000 (USD 46) from him and the Bribery Commission, having investigated the complaint, filed an action against this police officer at the High Court of Colombo. On 12 November 2007, a police squad arrived in jeeps, motorcycles and three-wheelers and surrounded the house of Mr. Fernando. They assaulted him with fists, kicked when he fell down on the floor and trampled him until he fell unconscious.

They also hit his wife with a pistol on her forehead and trampled her even after she fell to the floor. They slapped young daughter, Dilukshi, and hit her head. One police officer tried to remove her blouse, despite of her struggle against this. She was dragged to the police jeep and one officer tried again to lift her blouse. When she screamed, she was beaten. She shouted from the window asking someone to go and inform the grandmother.

When she inquired where they were being taken, a police officer replied, 'We are taking you to the beach to kill you.' The young son, Anjana, was dragged to a wall and struck about the head, face and stomach. Due to this mistreatment he lost part of a tooth and his lip was split.

Fernando regained consciousness only when he was inside the Crime Division of the Negombo Police station and water had been thrown over him. One police officer was shouting that this fellow had to be killed and that the Senior Superintendent of Police (SSP) has said to do this.

He was dragged out of the room and overheard an officer speaking over the phone to someone. 'Sir, that is what I am writing now, about this fellow who is half dead now in front of me.' Later, after their release all members of the family sought medical treatment and the medical reports confirmed their injuries. In an application made to the Colombo High Court in the bribery case, the High Court judge cancelled the bail granted to the police officer who was the accused in this case.

#### **244. Galapitahene Gedara Nandani Kumari: Ill-treated after private argument**

On 27 June 2008, at about 2pm, Galapitahene Gedara Nandani Kumari (aged 45) had a quarrel with a neighbour known as R.M. Padmakumari, the wife of the OIC of the Matale prison, H.M. Ekanayake. Nandani says that Padmakumari assaulted her and her son. Consequently Padma Kumari had admitted herself to the Raththota Hospital.

At about 3:30pm on the same day, officers attached to Matale Police station came and arrested Nandani and took her in a private van to the Police station. Nandani's husband also went with her and at the Police station met the OIC and made a statement regarding the incident. The OIC declared that since the first complaint made was against Nandani, they had taken her into custody. Nandani was made to sit on a chair near the police cell.

At about 5pm Nandani was taken to another room upstairs and a statement recorded. The officer who recorded the statement talked to her sternly. He accused her of cutting and injuring Padmakumari with a knife. Nandani denied this. After the statement was recorded, Nandani

requested that she wanted to read it before signing. The officer then shouted at her saying: “Who do you think you are that I should give this to be read?” He further scolded her saying that she was too forward. He forced her to sign the document that she was a suspect. Nandani was again taken downstairs and told to sit on a wooden bench. Nandani’s husband brought her a meal. For the night an old woman was kept with Nandani and at night they both went upstairs and slept on a bench.

The next day Nandani had got her menses and her head and back ached badly. Nandani told the elderly woman about it and she took her to a tap and told her to wash her soiled garments, in which she had to dress again in their wet state.

Nandani was taken back downstairs and told to sit on the wooden bench, which she found very uncomfortable. At about 8am Nandani called a Woman Police Officer (WPC) and told her of her position and asked her for medicine. The WPC refused to oblige saying that they were busy getting ready for the arrival of a senior officer.

Later again Nandani spoke to another WPC and asked her for sanitary wear. She too refused to oblige saying: “Where are we to find such things; are we to go home and bring them?” Nandani was in great discomfort and found it easier to stand and wait. The officers however, shouted at her to sit down. Nandani then told one of the officers her position. The officer told her to tell one of the WPCs. When Nandani next spoke to a WPC, she told Nandani that she would be taken to a court in a little while and to bear it somehow and wait patiently. Shocked Nandani asked why she was to be taken to court and was told that it was to obtain bail.

While Nandani waited, she heard the OIC reply to a phone call saying that he will be sending (someone) at 11:50pm, which she immediately knew was with reference to her.

Nandani was taken to court. Her husband too joined her. An officer who was there told them that it was not a court day, and that there will be no lawyers, however, if they could reload his mobile phone with Rs. 100, he could get them a lawyer he knew. Nandani’s husband provided him with the money; however, he took the phone call without reloading the mobile phone. Nandani then was taken with some others who were also in police custody and her husband to the Magistrate’s Court Matale.

At the court, the officer who had said he would find a lawyer asked Nandani how much money they had. When she replied that she had Rs. 500 he scoffed at it. Nandani then gave her gold chain to her husband to be pawned. For this they got another Rs. 2000.

The officer then went and spoke to the lawyer whose name was given as Darshani Gunasekera. The lawyer asked Nandani to relate the incident in brief since she was busy, and asked for Rs. 4000. Nandani told her that they had only Rs. 2500 in hand to which the lawyer said was not enough since she has to give money to the police as well. However, she agreed that they would pay the remaining Rs. 1500 on the next date. When the case was called, the lawyer appeared for Nandani. Nandani says that a charge had been fabricated against her stating that she had cut and injured Padmakumari with a knife. The police opposed bail and Nandani was remanded till June 30.

Nandani was then taken to the Matale prison, where the OIC is the husband of the said Padmakumari. The officer who had introduced the lawyer to Nandani went and spoke to the OIC in a friendly terms referring to him as machan ('brother-in-law'). Clapping their hands together in a gesture of congratulating on a job well done, the officer told the OIC that he had done his part and now the rest was up to him. The OIC then inquired about the lawyer that had appeared for Nandani. The officer told him that it was the "same one". The officer further asked the OIC if they will be "looked after". To which the OIC said that such things can be discussed later. Nandani claims then the OIC took a phone call and said that he is sending a person and to send a bus. Nandani was then sent to the Kandy prison on that same day.

At the Kandy prison, several women jailors got together and intimidated her saying; "So you came after assaulting our OIC's wife? The jailors on duty tomorrow will assault you", they told her and gave her food to eat.

On June 29, Nandani was taken to the room of the woman Jailor who asked her if she came from Matale. When Nandani did not speak, she was threatened and told to speak. Nandani then related the incident, referring to the OIC as the "Guard Aiya" the name by which he was known in the village. The woman jailor then scolded her asking, "To whom do you think you are referring to as Guard Aiya? Learn to talk, properly! Did you not assault the wife of the OIC?" saying this she took Nandani to another room.

On the way to the room Nandani slipped and fell on the floor. Several women jailors in the vicinity then pounced on her, and kicked and trampled her, shouting at her to get up. Nandani got up with difficulty. The women jailors now surrounded her and started to assault her in a most cruel manner hitting her head against the wall. They told her that they had got instructions to 'half kill her'. When Nandani was so assaulted that she passed urine and blood. The women jailors then gave her a piece of cloth and told her to clean up the mess and then have bath.

Nandani says after she had a bath she became very sick and vomited. Nandani was then taken to a doctor. However, the woman jailor who accompanied her threatened her not to tell of the assault. Afraid Nandani complied.

On June 30, Nandani was taken to the Matale Magistrate's Court. Again the women jailors threatened not to reveal that she was assaulted and if she did that she would be assaulted again when she is taken back.

Nandani was then sent back to the Matale prison, where the OIC of the prison H.M. Ekanayake asked her if she had enough of it ("parippu ethitha?") He further threatened her that if there is any problem again in the neighbourhood, she would be killed and sent home. Speaking to other officers, he told that it was a shame that they could not have got the prisoners to have done the rest too, which means rape. Nandani was put into a prison cell. Nandani's husband was not allowed to see her but the clothes that were brought by him were given to her.

Nandani was produced before the Magistrate's Court. The same lawyer Priyadarshani Gunasekara appeared for her. Nandani paid her the remainder of Rs. 1500. Nandani instructed the lawyer to tell court that she was assaulted in the prison but she did not do so. Nandani was given bail and released.

On the same day, due to the trauma sustained on her body and pains, Nandani got herself admitted to the Matale Hospital. She told the doctors that she was assaulted by the women jailors of the Kandy prison. The hospital police recorded a statement from her. The JMO examined her. Nandani was discharged on July 8, after about one week of treatment. Nandani says that as a result of the assault, her ears had to be treated. She was sent by the Matale Hospital to the Kandy Hospital where it was declared that her ears had been injured of the assault.

On July 4, Nadani's husband complained about the incident to the Kandy branch of the HRC. On July 8, a written complaint about the incident was sent to the HRC in Colombo and to the Commissioner General of Prisons and the IGP. Consequent to the complaint made to the IGP the complaint was referred to the DIG of Central Province.

#### **245. Seynool Arbdeen Seynool Aswar: "We will come and see you at home"**

Seynool Arbdeen Seynool Aswar went to Negombo Prison to see his brother, Seynool Miswar, an inmate in the prison at 3pm on 3 July 2008. While talking together, Miswar told Aswar that prison officers had threatened to assault him unless he would pay Rs. 25,000. Miswar asked Aswar to come the next day with the money. At that time he would show Aswar the person to whom he should hand over the money. He also asked Aswar to pay Rs. 1000 to the officer present at the meeting. Aswar had only Rs. 500 on him but he handed it all over to that officer.

Just before Miswar died, Seyedu Mohmad Abhu Ubeyda, another inmate, was going for a bath at 4pm on July 3. He saw Miswar holding his chest and abdomen. When asked, Miswar told him that Budhika and two other guards had assaulted him, which caused him severe pain. Abhu Ubeyda advised him to go to the hospital. On his way back from the bath, he saw that Miswar had fallen down dead on the floor.

When the investigation was initiated, Abhu Ubeyda testified to officers from the Crime Section of the Negombo Police station as to what he had heard from Miswar. Based on his statement, Negombo Police took the two jail guards, Warnakulasuriya Loreto Meril Frances Lowe and M. Budhika Jayasanka into custody and put them on remand.

After making his statement, two inmates came, took him behind Ward 11 and pretended to hit him. They did not beat him but pushed him so that he fell down. He was admitted to the prison hospital because of this incident. The Chief Jailor, Jagath, asked Ubeyda to meet with him. After he was discharged from the hospital, he went to his office. He asked questions about this incident and made notes but, without Ubeyda's signature. While Ubeyda was in the office, he heard some officers

outside calling his name saying that he was granted bail. The chief jailor told him, “You have been bailed out. It is good for all of us that you are leaving. If you stay here, we may all have to go to prison. We will come and see you at home. I will give you Rs. 150,000 if you do not mention my name in the incident.” However, Ubeyda did not accept this offer.

At around 9:45pm on July 17, four persons in helmets came to his house, tied him to the window grille and beat him with a pole for some time. They warned him not to come forward before the court as a witness in the case of Miswar. According to Ubeyda, he recognized two of them as the jail guards, Peiries and Jagath.

With respect to the death of Seynool Miswar, the Supreme Court has granted leave to proceed with a fundamental rights application in respect of articles 11, 12, 13(4) and 17 of the constitution (Case No. 342/2008).

#### **246. Sarath Kumara Naidos: Life in danger at Moratuwa Police station**

Sarath Kumara Naitos, aged 38 years, was arrested on 5 July 2008 around 12.30pm while he was working at Kesalwatta in a house, in Panadura. The arrest was carried out by officers from Moratuwa Police station. The officers came in a three wheeler and at the moment of arrest started assaulting Sarath. The place from where Sarath was arrested is under the jurisdiction of Panadura South (Kesalwatha) Police station, which is outside the jurisdiction of the Moratuwa police. However, the arresting officers were from the Moratuwa police and Sarath was held at that station.

The allegation against Sarath was theft, which he has denied. When the police were assaulting him they demanded that he return some articles which the police accused him of stealing. Sarath denied the charge. Representations were made to the Moratuwa police and to other superior police officers; however, Sarath was neither produced before the court nor released.

Due to repeated assaults Sarath lost control of his bowel movements. There was grave concern that he could die from his injuries.

Despite the case being reported to the ASP of Moratuwa, no enquiry or any action had taken place.

#### **247. D. N. Nimal and Ranjith: Arrested and assaulted for helping a female student who fell down**

D. N. Nimal and Ranjith were working in Hambantota, Gannoruwa School. Nimal is the principal and Ranjith was a teacher in the school. On the morning on 7 July 2008, D. N. Nimal and Ranjith came to school and observed that the majority of children were absent. Only two teachers reported to the office of the school while the rest of the teachers had not arrived. The few children who came to the school were taken back to their homes by their parents.



On the same day, a campaign was going to be held at Hambantota town asking for a bus from the authorities for people to travel to their working places and for children to go to school. All of them have no choice but to walk for long distances due to the absence of a bus line in the village.

Principle Nimal thought that the children might have participated in the campaign. He went to report the situation to the provincial education office with two teachers and some of the parents. Due to the lack of a vehicle, the principal rode a bicycle belonging to Ranjith, who was about to leave for Hambantota town on a private matter, and other people started to walk toward the town.

While Nimal and Ranjith were on the way to the town, they saw people were taking part in the campaign. They saw many of the children of Gannoruwa School accompanying their parents. At that time the campaigners were at Siribopura Junction and they were walking to the town. Some police officers were also at the junction inspecting the campaign.

Principal Nimal and teacher Ranjith stopped the bicycle and stayed at the junction, looking at the children of Gannoruwa School. Suddenly they heard a big noise and saw a female student of the school yell and fall down. (They later came to know the noise was a gunshot to chase away elephants destroying crops.) Ranjith rushed to the student and bent down to pick her up. At that time, Kalinga, HQI attached to Hambantota Police station came to Ranjith and assaulted him. He also scolded Ranjith in bad words. Some police officers who came with the HQI also assaulted him with batons.

Seeing the assault, children tried to save Ranjith but the police chased them away and pushed him to a police jeep. There were another eleven people in the jeep. When police attempted to assault Ranjith again in the jeep, other arrested persons prevented the assault. The police took them to the Police station and put them into a cell. While the people were in the cell, the HQI and other police officers scolded at them using foul language.

Meanwhile, Nimal and eight parents went to the Police station and asked for the release of the arrestees. However, HQI Kalinga scolded them. Principal Nimal was very ashamed in front of parents. Some parents were afraid of the HQI and left but principal Nimal and two people remained. Then, HQI Kalinga ordered an SI to put principal Nimal and other two parents into a police jeep saying, "We want you to clean some rubbish on the roads. You get ready to be road cleaners." Officers put them into the jeep and took them around the village, constantly scolded them. Later, they dropped them at Gannoruwa School.

Meanwhile, Ranjith and another eleven people stayed in the cell from 10:30am to 6pm. Then, HQI Kalinga took them to a magistrate and submitted a report saying that Ranjith and another two people were conducting a campaign at the Siribopura Junction and had bothered passengers in the road which caused traffic congestion, including ambulances taking injured soldiers to hospital. In response, the magistrate said that the accused had not done anything wrong. However, when the accused asked for release on bail, the HQI did not allow it. The HQI claimed that the police wanted to investigate them and keep them at the Police station for a further length of time. Finally, the magistrate allowed the police to keep them for further investigation. The accused were kept in police

custody for two days and released on bail on July 8 after paying Rs. 100,000 in total and being asked to go to the Police station for signatures every Sunday. The HQI Kalinga allegedly threatened Ranjith and Nimal that they would be dismissed from their jobs. He told that he would inform the education ministry that they organised the campaign and had behaved badly. He also said that he would inform this to the IGP.

#### **248. Velu Dena Dayalan, Velummailum Kamalthasan: Arbitrary arrest and detention**

Case 1: Velu Dena Dayalan (aged 26) is a resident of Jaffna, Sri Lanka. In April, 2008, he journeyed to Kandy to apply for a passport and stayed with his stepsister, Velukalayivani. Fearing abduction by the Liberation Tigers of Tamil Eelam (LTTE), he decided to remain in Kandy until the authorities approved his passport application and he could leave the country. However, on 8 July 2008, some officers attached to the Kandy Police Terrorist Investigation Department (TID), in wearing civilian clothes arrived at his sister's house in the Hantana district. They asked Dayalan to accompany them to the Police station to make a statement. At the station, he was arrested and held in custody. Velukalayivani was also questioned for three days. Already three months have passed since his incarceration and Dayalan has never been produced before court. Neither he nor his family has been told under what charges he is being held, or why he is in custody. The police have allowed his sister and her family to visit him twice a week, but they may only speak to him in the presence of police officers and in Sinhalese, a language Dayalan's sister cannot speak. Thus, they have no way to ascertain the truth of his situation, whether he has been tortured, or how he is being treated. The police, moreover, are carefully noting and scrutinizing any visitors and, thus, his sister fears going to the Police station to see him.

Case 2: The Negombo police arrested Velummailum Kamalthasan, a member of Socialist Equality Party (SEP) and his brother-in-law Santhiralingam on September 15 as they were preparing to travel to Colombo by bus. They were ordered out of the bus then taken to the Police station, despite having produced police registration documents to verify their identity. During their detention in the police custody, the police refused to release them their claiming that further inquiries into their possible connection to the LTTE was necessary.

However, the police failed to provide concrete evidence that support reasonable grounds for their arrest and failed to show the detention order for the two men. Mr. Somasiri Liyanage, Negombo Head Quarters Inspector claimed on September 21 that the police had obtained a three-month detention order for the two men but when being asked, the police failed to present the order. Police released the two men on September 23 as investigations had been completed and no evidence of "suspicious activities" had been found.

#### **249. B. Sumedha: New technique to impede investigation into cases of torture and false charges**

*(Based on the testimony of Jayanthi Ramyalatha wife and mother of the victims)*

At about 11pm on 11 July 2008, a group of armed police officers attached to Kurunegala Police station banged on the door of the house of B. Sumedha. When Sumedha's 14-year-old son Sanjaya opened the door, four officers entered the house. They cuffed Sumedha and searched the entire house without any warrant or notice. They dug up the entire floor with an axe for about 30 minutes and left taking Sumedha and Sanjaya to the Police station. On 12 July at 8:30am, Jayanthi, Sumedha's wife went to the Police station where she saw her husband, but was not allowed to speak to him. She then asked officers to see her son.

They told her to go to the first floor of the building and there she saw her son Sanjaya sitting on a bench, his face was swollen. The mother asked the boy what had happened he told her that he had been beaten by a police officer, Channa Abeyrathna, who interrogated him about a theft. Sanjaya initially denied any part in the matter but after being beaten, he confessed his involvement. After this, Jayanthi told the officers that they were not involved in any thefts but the officer told her that Sanjaya had already confessed that he had broken into a house.

When Jayanthi asked her son why he said so, he said that he was scared that the officers would continue to beat him. After that, she went downstairs to meet officer Channa, who asked Jayanthi to tell the truth about the incident. She again denied involvement in a theft. The officer then shouted and scolded her using foul language.

An officer came to her and asked whether they had pawned the stolen goods. When Jayanthi denied such an action, the officer threatened her and demanded to see her National Identity Card. The officer then took the card together with her passport. At 8:30am on July 13, Jayanthi again went to the Police station to see her husband and son. On this occasion the police told her not to come again to the Police station before July 18. On July 14, Sumedha's two brothers B. Sarath and B. Nihal went to the Police station. Sanjaya told them that his hands were tied behind his back and that he had been hung and beaten up for two days. Jayanthi also saw the marks on his hands.

They went to the Police station again on July 16 and 17. Sumedha told them that the police had said that unless he revealed the place where they had hidden the stolen jewelry, they would be killed. To avoid the continuous beatings, Sumedha told the police that he had given the jewelry to his sister's daughters. Hearing this, Sumedha's sister B. Mallika and her son-in-law Kamal went to the Police station where Kamal was promptly remanded for about half an hour before being released.

On July 18, Jayanthi and B. Mallika went to the Police station but were told to leave.

On the same day, they went to the Human Rights Commission Branch office in Kurunegala and lodged a complaint (No. HRC 3877/2008). When they went informed staff at the Police station them that they had reported this to the Human Rights Commission Branch office, an officer scolded them and threatened them to withdraw the complaint. Jayanthi subsequently made a written complaint of the incident to the Inspector General of Police.

On July 19, officers took Sanjaya to the hospital and also to the additional magistrates. Sanjaya was released on bail but Sumedha was charged with theft of the jewelry and remanded. Cases against

them were filed before Kurunagala Magistrate Court (Case No. B 93474/2008 and B 93473/2008). Meanwhile, Sanjaya was admitted to Kurunegala Hospital ward No 47 on July 21. He was discharged on July 25 after receiving medical treatment for five days.

The letter for investigation made by Jayanthi was sent to Inspector General of Police (IGP) and Deputy Inspector General (DIG) and Head Quarter's Inspector (HQI). However, Director Police Legal Division replied, on behalf of the IGP, saying that Assistant Superintendent of Police (ASP)--1, Kurunagala has informed that the mother said that she did not want any further inquiries and that she had made the complaint at the request and the insistence of the officers at the HRC-Kurunagala. However, Jayanthi says that she has never made such a comment and her signature was taken to a document when she met the ASP--1 but she does not know what the documents were.

### **250. Ravindra Indrasiri Wanniarachchi: Assaulted for intervening in police assault of customers**

Ravindra Indrasiri Wanniarachchi (aged 30) married with two children is a small businessman who managed his family's hotel in Athura, Bulathsinhala.

On 23 July 2008 at about 9:30pm, Ravindra was sitting as usual in the cashier's seat when Sgt Jayantha (No. 12296) of the Bulathsinhala Police station came in and assaulted two of his customers, namely K. P. Mahesh Bandy Kumara and Samantha Pushpa Kumara. They were attacked and slapped on the sides of the face below the eyes.

When Ravindra asked why they were assaulted, Sgt Jayantha turned, hitting him on the cheek saying, "It is none of your business." During the assault, he tripped and fell, striking his head on a nearby cupboard, and blacked out.

Ravindra was then taken in a three-wheeler by his mother to the Bulathsinhala Hospital. He was given some tablets to take and referred to the Horana Hospital. On the way to the Horana Hospital the three-wheeler stopped at his shop so that he could pick up some clothing.

At this point, some police officers including sergeant Jayantha of the Bulathsinhala Police station came in a police jeep and tried to stop Ravindra from being taken to the hospital. Sgt Jayantha scolded and threatened Ravindra's mother and father, finally shoving the father. As a result, Ravindra's father, who has a cardiac condition, had to be given medical treatment. Ravindra was taken to the Horana Hospital where he was treated and discharged the next day.

Ravindra informed the doctors who examined him at the Horana Hospital that he had been assaulted by sergeant Jayantha of the Bulathsinhala Police. The hospital police took a statement regarding the assault. Ravindra claims that the hotel had to be closed due to threats made by these police officers.

On August 4, Ravindra lodged complaints with the HRC, NPC, IGP and DIG of Kalutara.

## **251. Sarath Kumara: Assaulted for overtaking a police cab**

On 18 August 2008, Sarath Kumara, a police driver attached to Angunukolapelessa Police station was returning to Angunukolapelessa after completing his tour of duty at the Esala Perahera in Kandy. He left Kandy at about 9:30am, driving along the Ratnapura Embilipitiya road in Police Cab License No. WP LF 0694. In the cab were Sgt Hemantha of Hoongama Police and her husband, PC Wijesekara (No. 28999) of Ambalanthota Police and their 10 year-old son and PC Malinda (No. 60787), PC Nalaka (No. 60651) and PC Bogahawatte (No. 60885) from Ambalanthota Police.

Enroute at Hiddallana, Ratnapura, Sarath overtook another police cab. This police cab then overtook Sarath's cab. Again Sarath overtook the other cab. And again Sarath was overtaken. Then the other cab blew his horn and signalled for Sarath to stop his cab. Sarath stopped. It was about 4pm.

An HQI, IP, sergeant and constable alighted from the other cab and came up to Sarath's cab. They removed the key from the ignition, opened the cab door, pulled Sarath out of the cab and started to assault him, all the while reprimanding him harshly using foul language. All of the four officers joined in the assault which took place on the main road and witnessed by ordinary civilian onlookers. Sarath was given no opportunity to ask the reason for this assault.

The HQI assaulted PC Nalaka too, who was in Sarath's cab. After that they took Sarath and the others to the Ratnapura Police station. There, they were again assaulted, this time in front of other police officers. The inspector held Sarath by the neck and pushed him into a police cell, knowing full well that Sarath and Nalaka were police officers. The other police officers who travelled in Sarath's cab saw all these things and submitted written statements about the incident.

After about an hour-and-a-half, the inspector who assaulted Sarath took him and Nalaka in his cab to a private nursing home. The inspector told them to stay outside and went inside to meet a doctor known as Deputy Medical Officer Athula Ratnaweera. After about five minutes he came back and told Sarath and Nalaka to go inside and see the doctor. The doctor asked Sarath whether or not he was an alcoholic. Sarath told the doctor he had not taken any alcohol. Sarath told him that they had been assaulted by the police. The doctor however, informed him that there were no visible signs of injuries of the assault on them. At this Sarath informed him that he was experiencing severe pain in his ear, neck, head and back where he had been beaten. Taking no notice, the doctor got Sarath to sign a document. Sarath and Nalaka having no power over this situation were helpless and signed the document, not informing him of what the document contained.

At about 9pm on the same day, the Ratnapura Police made an entry in the police book, saying that Sarath and Nalaka were brutally assaulted and got Sarath to sign it. He was then asked to report to the court on 25 August 2008. At about 11pm Sarath and Nalaka were bailed out by Police Woman Sergeant Hemantha (No. 1664) who signed for the bail. That night Sarath's group stayed at the home of one of Sarath's friends and continued their journey the following morning at about 5am.

Back home Sarath made a statement regarding the incident at the Kuttigala Police station where Sgt Wilson (No. 12477) recorded it and gave a judicial medical form to the doctor to fill out. At the

Kuttigala District Hospital, Sarath received medical treatment for four days. According to the medical report issued, there was swelling around the neck, the lower back and the sternum. It also noted that a blunt weapon had been used to beat Sarath. On August 22, Sarath was discharged from the hospital.

On August 23, when Sarath and Nalaka reported to Angunukolapelessa Police station, they were informed that their services in the police force had been terminated. On verbal instructions from the OIC Sarath and Nalaka entered everything regarding the incident in the police log book.

On August 25, Sarath and Nalaka went to the Ratnapura Magistrate and waited until 1pm to be called. The clerk at the courthouse said that the case was not to be taken up that day. Next Sarath and Nalaka went to meet the ASP of Sabaragamuwa. Sarath and Nalaka informed the ASP about all the details of the incident and went back to court. The case was taken up at about 3pm. The false medical report was produced in the court. Sarath was charged with drunk driving, negligent driving, dangerous driving and obstruction of other vehicles. At the court, Sarath also made known that he was beaten by the HQI of Ratnapura. The case was postponed to August 29.

At the trial on August 29, the accused made a statement to the judge who subsequently ordered the Deputy Inspector of Police, Ratnapura to inquire into the incident and report back to the magistrate. The relevant authorities started inquiries into this case. In addition, the Medical Council confirmed that the doctor who noted in his report that Sarath had liquor on his breath was not registered as a JMO.

## **252. Malayappan Kali Dasan: “This is not enough; hang him”**

Several police officers from the Gampaha Police station went to the house of Malayappan Kali Dasan at around 10:30am on 21 August 2008 and inquired about other persons living on the premises. Dasan replied that only his wife and two children were with him. Then, the officers asked Dasan to accompany them to a neighbour’s house. As soon as Dasan entered the premises of the neighbour’s house, an officer suddenly caught him by his shirt collar and forced him into a car.

When seeing this, his wife and his eldest daughter came crying and asked where the officers were taking him but the officers scolded them in filthy language. Then, the officers took him to the Gampaha Police station. According to Dasan, on the way to the Police station, he was threatened with a pistol and asked to hand over the jewellery he had stolen from the neighbour’s house. At this time, he came to know that the neighbour might have complained to the police that he had stolen jewellery and for that reason he had been taken into custody. He was, in fact, taken to the Police station in the neighbour’s vehicle.

Without any questioning, the officers took him to the upper floor of the Police station. There were four police officers including OIC Bandula Perera and PC Weerasiri. The OIC asked him to hand over the jewellery of which he had no clue. He beat him with a hose pipe on his body, his back,

knees, elbows and the soles of the feet. Then, the OIC said, "This is not enough. Hang him." Then, Dasan was blindfolded and his mouth was covered with a piece of cloth to prevent him shouting. His clothes were removed. The officers tied his hands behind with a piece of cloth and tied a rope to the cloth.

They put the end of the rope over the beam of the roof and pulled on it so that his body was suspended. When he was hung, an officer hit his head with a hose. This lasted for about one and half hours. He was almost unconscious when he was brought down. When he was taken down, he was asked to lie down and an iron bar was placed on his legs and two police constables stood on each side of the bar which caused severe pain. Officers said, "if you have no money, we will get some from your neighbours, but hand over their jewellery". Then, he was brought back to the ground floor and his legs were chained. He was caned on the following day.

In the morning on August 26, police recorded his statement and asked him to sign it. He was brought before the Gampaha Magistrate at noon. The Police claimed that the inquiry was not over but Dasan was granted bail of Rs. 100,000 and the day of the trial was fixed for 3 November 2008.

On August 27, Dasan went to a private doctor for medication. As his pain continued, he was admitted to Warakapola Hospital from September 1 to 3 where he told a doctor what had happened to him in the Police station. The doctor informed this to the Dadigama Police and an officer took down his statement.

### **253. Prasantha Pradeep Kumara Francis: "We know how to extract information from you"**

On 21 August 2008 at about 9am Prasantha Pradeep Kumara Francis went to the Panadura South Police station to get a certified copy of a complaint he had made on 18 August 2008 with regard to the loss of his national ID card.

As Prasantha was leaving the premises after obtaining the certificate, a police officer dressed in civilian clothes asked him if he was also known by the name of Chooty or Patty. Prasantha said he had no other names. The officer then told him that he wanted to record a statement from him and took him to the Crimes Branch in the station.

Prasantha was made to sit on a chair and the officer in civilian clothing asked him why he had come to the Police station. Prasantha said that he had come regarding the certificate, showing him the document in his hand. There were about 4 other officers also dressed in civilian clothes. One of the officers then asked if he was also known as the "buthaya", or ghost? He also asked Prasantha if he had a younger brother and what he looked like. Prasantha then described his younger brother.

Another officer then asked Prasantha if he had stolen any bicycles and that if he showed them where they were, they would not harm him. Prasantha denied having stolen any bicycles. He said he worked as an electrician. The officer then said that if he was not the one who had stolen the bicycles, then it must be his brother. He asked him if his brother was at home. Prasantha said that he

did not know the whereabouts of his brother. The officers then called a person who reported his bicycle stolen. They presented Prasantha to him and asked if he could identify him as the thief. The person said that the thief looked like Prasantha but was definitely not him.

The officers then took Prasantah to his home. The door was closed and there was no one in the house. After examining the surrounding area, they went back to the Police station taking Prasantha with them.

Prasantha was again taken to the Crimes Branch and asked if he knew where his brother was. Prasantha again said that he was not aware of the whereabouts of his brother. Then the officers saying “we know how to extract information from you” took him into a hall adjoining the Crimes Branch.

Prasantha recognized this as an officers’ dormitory, since there were bunk beds, mosquito nets, clothes racks and two tables visible.

The officers then stripped him of his shirt, tying his hands in front with a blue cloth. They made him sit on the floor with his knees hunched up against his chest and placed his hand still tied around them. Then they passed an iron pole through his hands and under his knees. In this manner, they hung him from the iron pole raising and wedging it between two tables (the “Dharma chakra” or “Wheel of Law”). Prasantha was thus hung upside down. The officer who had taken him into custody then beat him with a wooden pole. Each time he was hit, the impact swung Prasantha’s body around until it stopped with his head upside down. In this position the officers beat the soles of his feet with a pole. Prasantha was tortured in this manner for about one hour.

Then the torture was stopped. They pulled his hands to his sides, supporting his spine and making him stand up. Both his hands and legs were numb but the officers made him walk before he was put into the cell. Prasantha was given lunch and dinner that day.

On August 22, the officer who had taken Prasantha into custody was wearing his uniform bearing No. 14241. On this day Prasantha’s mother came but she was not allowed to see him. The whole day Prasantha was kept in a cell and given regular meals.

At noon on August 23, the officer bearing identification No. 14241 took him out of the cell. He began assaulting and kicking him about the face and body before taking him to the Crimes Branch.

Again Prasantha was asked where his brother was. He again said he did not know the whereabouts of his brother. Then the officer saying “we will find out” took him to the same hall where he had been tortured previously. Then, he was tortured, beaten over the body and soles by the same officer. The officer used another means of torture. Prasantha was shown some ‘kochchi’ (chilli) and was told that the juice was going to be put into his eyes. Then the officer made a wad, wrapping the chilli in a cloth. He then squeezed the juice into Prasantha’s eyes and nose. This was done while Prasantha still hung upside down from the iron pole and in between the time that he was assaulted with the



wooden pole. Prasantha screamed in pain asking for water. This lasted for about one hour until he lost consciousness.

Prasantha was then lowered to the floor and like on the previous day made to stand and walk. Prasantha could not open his eyes. The pain he felt in his body and eyes was so severe, that Prasantha was not aware of what happened after that.

But Prasantha was aware when he was taken to a wash room where a tap was opened and he was made to sit under it and told to bathe. Prasantha says he sat under the tap for about 15 minutes. Prasantha was then returned to the Crimes branch, made to sit on a chair handcuffed to the leg of a table. Prasntha felt faint and he was not aware of what happened after that. He vaguely remembers having eaten.

When Prasantha fully recovered his senses, it was August 24 and he was in the police cell. He was then presented before the Panadura Magistrate at his official bungalow. The magistrate did not ask any questions and Prasantha was remanded in the Kalutara Prison.

On August 25, Prasantha was arraigned before the Panadura Magistrate's Court. A charge had been made against him of stealing a bicycle. An attorney-at-law Abeyasinge appeared for Prasantha. He informed the magistrate that Prasantha had been assaulted by the police and that he needed medical treatment. The magistrate granted bail. However, since there was no one to furnish bail, Prasnatha was again sent back to prison.

On August 27, Prasantha was released on bail. The date of the next arraignment was scheduled for December 15.

Prasantha's mother sent a fax, dated August 22, to the HRC, NPC, IGP and SSP of Panadura concerning his plight. Prasantha sent a written complaint, dated August 27, setting out the details of his incident to the same persons.

#### **254. Buddhika Mahesh: Kuruwita police assault on road**

On 31 August 2008, while 17-year-old Buddhika Mahesh was at home, he was informed by his neighbour, Amitha, that his elder brother, Chamila Jeevantha, was involved in a brawl at the Kuruwita bus stop. Chamila was returning home after a party. Upon hearing this, Buddhika went to the spot with his younger brother Isuru and managed to get his brother out of the fight. On their way home, they met their mother, Don Theverepperuma Leelawathi

At 5:30pm while they were walking home, a jeep from the Kuruwita Policestation came and stopped them near Kuruwita Lorry Park. One officer named Sunil got out of the jeep and two traffic motorcycle police dismounted. Without warning the traffic officer broke a pole off a fence and started to assault Buddhika, making him sit on the ground while continuing to beat him. The mother begged the officer to stop the beating. She said her son had done nothing wrong but simply had

gone to bring his brother home from the bus stop. Buddhika also tried to explain his innocence to the officers. However, the police would not listen. They continued the assault. A crowd gathered and was allowed to watch the scene.

Then, officer Sunil pushed Buddhika into the jeep. While the mother pleaded with them not to take her son, the officer forcibly pushed her away so that she fell down into a pool of mud on the road. He then dragged Chamila and put him in the jeep too. There were about four officers in the jeep which had its own driver. They left without giving any reason for the arrest.

The mother followed the jeep to the Kuruwita Police station where she was told by officer Sunil that the boys had to be tested to see if they were drunk. Chamila and Buddhika were then taken to the Ratnapura General Hospital, where officer Sunil asked a hospital aid where a certain doctor was at this time. He was told that the doctor was at a private clinic in Pelmadulla. Officer Sunil then called the doctor on his mobile phone and told the other officer that the doctor would be in Palmadulla until 10pm.

At this point, the boys were taken to Palmadulla to a private dispensary called 'Instant Medicare', located at 34, Main Street. They met Dr. Kamal Pattiyawattege, the JMO of the Ratnapura General Hospital. Officer Sunil met with the doctor first and later sent the boys in individually to be examined by him.

Dr. Kamal Pattiyawattege asked Buddhika how much he had drunk and Buddhika replied that he had not drunk anything but that he had been assaulted and taken into custody when he was bringing his brother back from the bus stop. Then, the doctor wrote up his notes. The boys were taken back to the jeep and officer Sunil again met the doctor, Sunil coming out of the room carrying a piece of paper. Then, the boys were taken back to the Police station and put in a cell at about 10pm.

The mother was told to bring a fresh set of clothes. While the mother was absent, the boys were taken out of the cell and forced by officer Sunil to sign under something written in a book. Buddhika asked that he be allowed to read what was written but was refused. At 11:45pm, the boys were released on bail and told to appear in the Ratnapura Magistrate's Court on September 4.

They appeared in court and were charged separately with being drunk and disorderly behaviour. Even though the mother paid Rs. 500 to the lawyer Kithsiri Arabageethara to appear in court on behalf of her two sons, the lawyer did not appear. The court asked Buddhika if he pleaded guilty or not. He was not given a chance to answer because the police officers dragged him out of the witness box in the presence of the judge. However, it was recorded that Buddhika pleaded guilty. Both boys were each fined Rs. 2500.

On September 11, Buddhika sent a written complaint to the HRC, NPC, IGP, SSP of Ratnapura and Secretaries of the Bar Association and Medical Council.

## **255. Madushani Subasinghe: Forced to sign document and put fingerprints to bottle**

On 1 September 2008, Madushani Subasinghe (aged 16) was returning home from her aunt's house at about 7:30pm. Opposite her house, she saw an armed group of officers in civilian clothes. One officer asked her where her parents were. Madushani told them that she was not aware, since she had been at school the whole day.

In response, two officers suddenly assaulted Madushani on her thighs and hands and kept on threatening and asking her parent's whereabouts. When Madushani tried to avoid the beating by covering herself with the hands she got a severe blow to her hand and she fainted.

Later on she came to know that one of the officers who had assaulted her was named Banadara. The officers then forced her into the police jeep along with her sister Subadrika Chandrasani Subasinghe and her two children.

As a result of the assault Madushani's both hands became numb and she complained of a severe pain in her chest. Madushani was feeling so ill that she had to lie down on her sister's lap. The officers who heard her complaints did not afford her any comfort or medical examination or treatment, they told her that she was making it all up. Madushani, her sister and the two children were then been taken to a room behind Ambalanthota Police station.

At about 8:30pm, two police officers tied two pieces of wooden rods--a kind of native treatment on to Madushani's hands with a piece of old cloth, thinking that they were broken. At about 8:40 pm an officer brought a woman to stay with them in the room. That night Madushani, her sister and the two children were told to stay in the room till morning. They were not given anything to eat that night and were told not to leave the room.

At about 6am on September 2, Madushani's sister removed the wooden rods from her hands as Madushani's hands were sore and she was in pain. After that officer Bandara had come and asked them why they removed the wooden rods. Then, they were taken out from the room and made to sit on a bench till 4pm.

Meantime, at 1pm, they were forced to sign some papers whose contents were not known to them. Then, Bandara and one sub inspector forced to apply their finger prints on a bottle and a barrel of illicit liquor. They threatened them to oblige and out of fear they did so. Madushani's aunt and the other sister met the OIC of the station. Madushani and her sister were released on bail. They were asked to report to court on September 4. The police also got Madushani's aunt to sign a document saying that Madushani was in good health. They also threatened Madushani's relatives not to speak to anyone with regard to this incident.

At 8pm, Madushani was admitted to Hambanthota General Hospital and received treatment and discharged on September 3. However, due to her health condition, she was admitted to Tangalle Hospital again on September 4 where she received treatment for another three days and discharged on September 6. During her hospitalization, the hospital police took a statement from her and JMO examined her.

Madushani and her relatives later got to know that the police filed a false case against her at the Hambanthota Magistrate's Court stating that she was in possession of illicit liquor.

### **256. Erandaka Bulathsinghela: Severely assaulted for defending boy from police assault**

Erandaka Bulathsinghela attended a celebration for Children's Day held at S.D.S. Jayasinghe grounds on 1 October 2008. After the celebration, he boarded a bus getting off at Weligampitiya junction where he transferred to another bus to his home in Ganemulla. At the junction, he stopped by a restaurant to buy some food at 2am on October 2.

While he was waiting, he noticed three men in a white car stop near the restaurant. One man got out and asked a boy who was in the restaurant to come out to him. When the boy approached, the man started hitting him without uttering a word.

As the boy was being beaten, Erandaka went to him and told him not to hit the boy. Then, the man asked, "What authority do you have to tell me not to hit the boy? Do you know who I am?" Erandaka replied, "I don't care who you are but please don't assault the boy". Then, the man identified himself as IP Nalin from Kandana Police station. He asked who Erandaka was. Erandaka said that he was a photo journalist. Then IP Nalin said, "Ohh!, people like you are wanted." He then released the boy and started assaulting Erandaka. The IP Nalin ordered two other plain clothes policemen to take him to the Police station by taxi. Erandaka was brought to the Police station and held in a cell.

After some time, IP Nalin came to the Police station. He asked an officer for the key to the cell where Erandaka was being detained. When the officer refused to give up the key, the IP scolded him and got the key anyway. The IP opened the cell and started beating Erandaka again. He punched him in the stomach. Erandaka fell to his knees, with the IP striking him about the face for about 30 minutes. Due to this assault, his mouth, eyes and ears sustained multiple injuries and started bleeding. Erandaka was ordered to remove his shirt and mop up his own blood, which he did.

The IP only stopped the physical violence against Erandaka when two other officers, inside the car with him, came and restrained him. Then, he wrote something in a book in the Police station. Erandaka was unaware of what he wrote. Erandaka's mobile phone, watch and sun glasses were confiscated by two other police officers.

Erandaka suffered severe pain. His lips were cracked and one of his eyes was swollen. Due to the unbearable pain, he begged a police officer near his cell to take him to a hospital. But the officer refused saying, "this is an order from higher officers. I can do nothing".

At 4:30am, a police officer, a friend of Erandaka, working in the same Police station came and took him out of the cell. At the same time, the two plain clothes officers changed into uniform and took Erandaka to Ragama Hospital. The police officer, Erandaka's friend, accompanied them. Erandaka was admitted to the hospital at 5:30am and surgery was performed on his cracked lips. A doctor

examined Erandaka post-op and wanted to discharge him. However, a second doctor who further examined him decided to admit him. At the hospital, he was able to inform his wife of his situation. He was discharged on October 3 and allowed to go home.

After being discharged, he went to a private medical centre where a doctor diagnosed bulging below his ear and a cracked jaw.

On being informed, Erandaka's relatives, on October 2, questioned the reason for his arrest and assault to the OIC of the Kandana Police station. The OIC replied that there was no complaint filed against him at the Police station, but failed to mention his illegal arrest and assault. Erandaka's relatives lodged a complaint at the Police Headquarters in Colombo on October 3. Erandaka was informed on October 24 that headquarters was investigating the complaint, although there was no evidence of this. Erandaka continued to suffer pain as a result of the assault.

**257. Anil Chandana Kumara: Police allegedly torture a young man**The Asian Human Rights Commission (AHRC) has received information that the Wennappuwa police tortured a young man on October 8, 2008. Following his arrest the police failed to inform his family and allegedly tortured him whilst he was in their custody. The man had to undergo surgery to his leg after being subjected to torture when he was in prison. He was later released on bail but the police have not returned his personal property.

*(Based on the written complaint of Padmananda Kumara (50) the father of the victim to the Inspector General of Police)*

At 11:30pm on October 8, 2008, Mr. Padmananda Kumara was informed by the Wennappuwa Police of the arrest of his son, Anil Chandana Kumara, 19. Anil Chandana works as a sales personnel and is in charge of collecting money.

On the next day at 9am, Padmananda and his wife D. Chandani Kusum Latha went to meet the Officer-in-Charge (OIC) of the Wennappuwa Police station, who informed them that their son and another person had been caught by some people in an attempt to steal a chain. They had assaulted him and handed him over the police. They were further informed that their son had been sent to the Negombo prison.

They went to the Negombo prison where they saw Anil Chandana in severe pain, with one arm suspended in a cloth sling. Anil Chandana then told his father that while he was riding his motor cycle with one of his friends on the pillion, a passing car had obstructed his way. As he stopped his motorcycle, some people caught them and handed them over to the Wennappuwa Police station.

Anil Chandana further said that he was assaulted by four officers in the Police station with wooden poles, a length of hose and wire. He does not know the names of the officers who assaulted him but

he said that he could identify them if seen.

On October 10, Anil Chandana was taken to the Marawila Hospital to be treated for the wounds sustained in the police assault. Thereafter he was produced before the Negombo Magistrates and was imprisoned. While he was in prison Anil Chandana underwent surgery at the Negombo Hospital on his injured leg. On October 20, he was produced in the Magistracy where bail was refused but later granted on October 29. He was charged with attempting to steal a chain.

On November 19, Mr. Padmananda Kumara and Anil Chandana went to the Wennappuwa Police station, to collect his motor cycle, his mobile phone, identity card and money amounting to Rs.8,000/= (USD 70) which Anil Chandana was carrying in his purse at the time of the illegal arrest. The OIC Crimes Section verbally abused them and chased them away.

On November 28, Mr. Padmananda sent copies of the complaint made about the incident to the relevant authorities including Assistance Superintendent of Police.

### **258. Udayarathne: “We will kill you”**

Udayarathne was accused of theft and detained in Kegalle prison on 20 October 2008. He was produced before the Kurunegale court which ordered him released on bail on October 22. He was then taken to the fiscal department at the court accompanied by his wife Seetha. Here the jailors asked him to sign a statement before returning home.

A jailor, with a document of bail, asked for Rs. 1,000.00 (USD 9) for his release. When Udayarathne said that he did not have the entire amount, the jailor asked him to pay half and Udayarathne paid half. Then the jailor took Udayarathne to see Rathnayake, Full-in-Charge (FIC) of the department and asked him whether it was all right to release him. The FIC then asked Udayarathne, “Did you promise something to the jailor?” When Udayarathne replied negatively, the FIC ordered the jailor to return Udayarathne to the cell in the fiscal department. Meanwhile, the money that Udayarathne paid was given back to his wife.

Udayarathne was kept in the cell until 7:30pm when he was again taken to Kegalle Prison. When his wife questioned the jailors about this, they said that he would be brought back to Kurunegala on the following morning. Udayarathne spent the night of 22 of October in the Kegalle Prison.

At 5:30am on October 23, jailors started getting ready to transfer those remanded to Kurunegala prison but they did not include Udayarathne. Udayarathne appealed to the FIC Jayathilaka Banda to take him too. However, Jayathilaka asked, “Do you have money?” When receiving a negative response, he said, “If you don’t have money, tell your family to bring Rs. 10,000. He asked “How much did you pay your lawyers?” Udayarathne replied “about Rs. 200,000”. He scolded Udayarathne saying, “You have money to give to the lawyers but you don’t like to give money to us.” Then, Jayathilaka refused his transfer to Kurunegala Prison.

After that, Udayarathne began crying because of the injustice and violence done to him. While he was crying, others remanded with him advised that he go to the welfare office at the prison. He went and told all about the incident to a welfare officer. The welfare officer dispatched a prisoner as messenger to the jailors asking the reason why they would not allow Udayarathne to go home. A little while later, the messenger returned and said that the jailors asked Udayarathne to come to the office. He went to the prison office where the jailors scolded him saying, "Why did you go to see the welfare officers and tell them about the incident?" The jailors again put Udayarathne back into a cell.

At 6am when cells were opened for breakfast, Udayarathne did not go to eat but appealed to a jailor to let him go. He said, "We will let you go only when we want to let you go. If you are going to argue with us, I will slap you."

At 1:30pm while in a cell, Udayarathne was told to come to the office where he was told him to get ready to go to Negombo Prison. He told them that he was released on bail and did not need to go to Negombo Prison. He also reiterated that there was no case against him. However, the jailors ignored him and sent him to Negombo with two prison guards reaching the prison at 5pm. The jailors at Negombo Prison refused to admit Udayarathne, saying that there was no reason to admit him.

At 8:30pm Udayarathne was again brought back to Kegalle Prison. He saw the FIC Jayathilaka Banda at the entrance of the prison. As Udayarathne entered the prison, three jailors began scolding and ridiculing him using foul language. He begged, "Please don't scold me. I am so tired. Please ask what happened from the other two who went with me to the Negombo prison."

Suddenly Jayathilaka came up to Udayarathne and slapped him. Another jailor joined in the slapping. Yet another ordered him to remove his slippers. When Udayarathne bent down to remove his slippers, the jailor kicked him and he fell to the floor. Then, Jayathilaka kicked him in the stomach, saying, "We will kill you." In like manner, all four jailors beat Udayarathne using both hands and feet. He was then dragged and put him back into the cell. They did not provide any food for his dinner.

As a result of this assault, Udayarathne started vomiting blood and bleeding from his mouth. His left ear was damaged. Stomach pain caused him to loose control of his bowels.

On October 24, he was so sick that he did not wake up and continued sleeping. At 10:30am, a jailor came and said, "Now we are going to release you. But, keep in mind that we are the people who decide to release you or not. You can do nothing until we decide." Even though he was released, he was unable to go home alone and was sitting in a visitor's room of the prison building. He borrowed a mobile phone from a visitor and called home. When his son and a relative came to Kegalle Prison to bring him home, he decided to inform the chief jailor of the prison of the incident. He was allowed to meet the chief jailor telling him the whole story. Then, the chief jailor said, "Oh! They had no right to assault you. Please be seated outside and I will take action on this."

A while later, a jailor came and took Udayarathne to a room where he had earlier been assaulted. The jailor started to take down a statement from him. He related the story in full but the jailor did

not write it down. Udayarathne said that the jailors who assaulted him were under the influence of liquor at the time. The jailor told him, “you cannot say that without seeing them drinking.” He also said he vomited blood as a result of the assault. But the jailor refused to write it down saying, “We did not see you vomiting blood, so we cannot write it down.” Due to his repeated appeals, the jailor finally wrote it down.

While the statement was being taken, another jailor came into the room. Udayarathne identified him as one of jailors who assaulted him. He said, “Sir, that jailor also assaulted me.” The jailor taking his statement said, “I can write his name down only if you can tell me his name.” Udayarathne replied “I do not know his name but you know it sir.” However, the jailor did not write down the name. After completing the statement, the jailor asked Udayarathne to write ‘I read the statement and I agree with this’ and sign it. Even though he declined to write down and sign the statement, because it was incorrectly written, he was forced to sign it.

After his release from prison, he went to Dambulla Hospital where he was hospitalized for 6 days. He was later transferred to Matale Hospital and stayed for three days. He was then transferred to Kandy Hospital for a test on his damaged ear and came back to Matale Hospital where he was discharged on November 1. He could not hear out of his left ear due to the assault and is now facing financial problems because of his hospital bills.

### **259. Wijesekarage Don Senarath Appuhamy: Police assaulted and laid false charges on an officer working against illegal logging**

*(Based on the testimony of the victim)*

On 9 November 2008 at 11pm, some officers from the Karuwalagaswewa Police Division came to the house of the victim, Wijesekarage Don Senarath Appuhamy, where they conducted searches claiming there was a suspicious person present there. Appuhamy is attached to the Civil Defence Force and is presently stationed at the Pahariya Security Check Point of the Karuwalagaswewa Police Division of Putlam. He bears service number T 61776.

Those who conducted searches include a constable from the Karuwalagaswewa Police station, a constable attached to the Pahariya Security Check Point and six others attached to the Civil Defence Force under the Pahariya Police Division. While searching Appuhamy's house, an officer name Indika of the Civil Defence Force began scolding and threatening Appuhamy.

After completing the search, a Constable attached to the Pahariya Security Check Point told the victim he should report for work on the following day.

Accordingly the following day, 10 November 2008, as Appuhamy was on his way to work he met another officer attached to the Civil Defence Force, Jayantha, near the 14th mile post of the



Pahariya junction. Jayantha was with his wife and was in plain clothes. Jayantha was also one of those who went to his house the night before.

Appuhamy asked Jayantha if Indika, the officer who had scolded and threatened him during the searches at his house, was known to him. But instead of answering his questions, Jayantha assaulted Appuhamy. Appuhamy then went to make a complaint about the incident to the Area Captain in charge of the Civil Defence Force. Since he was not there at that time Appuhamy informed about the incident over the phone.

The Area Captain told him to inform the police and go home. It was about 8pm. After the incident, Appuhamy went to the Karuwalagaswewa Police station to make a complaint where he met Chandrathilaka, a police Constable who bears a service no. 33619. Once again, he was instead assaulted and told: 'you are the one we want'. Chandrathilaka assaulted him with a pole, hit his hand and kicked him by his boots until he fell unconscious. Chandrathilaka had his uniform ripped-off and torn before putting him inside their detention cell. While Appuhamy was detained inside the detention cell, Jayantha, the officer whom he met and assaulted him, had come to the Police station where he was held.

However, the police there had Jayantha's statement recorded and his version of story ignoring the complaint Appuhamy had tried to make earlier. Appuhamy had to spend the whole night in police detention. At that night, he felt sick and was shouting due to excruciating pain he was suffering. Upon hearing this, Gunaratne Banda, the Officer-in-Charge (OIC) of the Police station, kicked him after taking him out from the detention cell and told him to stop because he was only faking his ill-health.

It was only at 12:30am of November 11 that Appuhamy was taken to a hospital in Thabbowa. Upon arriving at the hospital, he told the hospital authorities that he had been assaulted by the police. He was admitted for treatment there.

At 8:30am that day, OIC Gunaratne Banda, the Police Constables Karunathilake and Chandrathilaka respectively came to the hospital where he was admitted. They had him taken outside the hospital telling him that he would be taken to the Putlam Hospital. When he was taken from the hospital where he was first admitted, Appuhamy said he has not been able to sign any hospital document before having been transferred to the Putlam Hospital.

Appuhamy was then taken to the Putlam Magistrate before having been remanded to jail for charges of obstructing police duties—a charge which he came aware of later. Appuhamy said that before the charges were laid on him; he was never given any opportunity of getting legal assistance from a lawyer nor was he had his side of stories heard for his defense in court. It was only on November 19 that Appuhamy was released on bail.

On November 21, he was admitted and given medical treatment at the Anuradhapura General Hospital for three days. While being admitted, the Judicial Medical Officer (JMO) had his condition

examined and his statement taken by the Hospital Police. On November 25, Appuhamy had been called for a hearing of the case the police laid on him at the Putlam Court.

Only then that he learned that he had been charged for obstructing police duties. Appuhamy believes that the assault and subsequent filing of false charges on him could have had connection to his work against illegal logging, hunting of wild animals, brewing illicit liquor, bribery and other illegal activities in the area. The area is where the police who assaulted him are also assigned. He had been serving the Civil Defence Force for nine years and has in fact been rewarded for his accomplishment that led to having illegal loggers held in his area.

#### **260. Kurugamage Don Predeep: Unable to walk or stand up straight**

After work, Kurugamage Don Predeep went to a restaurant to have dinner with his friend Laksiri, a driver at the Kalubowila Junction at 8:30pm on November 10 2008. While they were ordering dinner, Pradeep asked Laksiri to put a 'Reload' in his cellular phone. ('Reload' is one of the card connection systems used in Sri Lanka not requiring a monthly fee. People reload money to the phone by using a reload card.)

An officer named Manoj of the traffic branch of the Kohuwala Police station, without saying a word, suddenly began to beat both Pradeep and Laksiri. Within a short time, a police mobile unit and a team of emergency search and investigation police came to the junction. Five police officers including the driver of the police jeep also started beating them. They beat them using police batons, their hands and legs.

Later they were admitted to Kalubowila Hospital. It is reported that Manoj had the nickname 'Reload' because he took bribes from drivers. He used to tell the drivers that if they wanted to be released, they must give him a reload.

He thought that Pradeep and Laksiri insulted him by using the word 'Reload'.

#### **261. Name withheld: A rape victim was intimidated and harassed by the police to marry her abductor and rapist**

*(Based on the testimony of the victim)*

On November 16, 2008 at about 5:45pm, Ms. X (original name is withheld for security reasons), an 18-year-old resident of Thumba Kara vila yaya village under jurisdiction of the Dambulla Police station in Central Province of Sri Lanka, was returning home from her aunt's house. On her way home she observed a three-wheeled scooter following her. Near her home, the three-wheeler stopped behind her house, where she heard a person asking her to get inside the vehicle. When she looked back she saw a man of short height and dark complexion, but was unable to recognize him.

Ms. X ignored the man and kept walking while the person followed her. Then as she had looked back the person clamped a handkerchief, which smelt of a strong substance, to her face.

Thereafter, Ms. X lost consciousness and when she regained consciousness, found herself in an unknown bedroom. There Ms. X recognised Mr. Sanjith, a person from the neighbouring Navagaslanda village. Sanjith is associated with Civil Defence; and wanted to marry Ms. X, but she refused the proposal. Ms. X asked Sanjith where she was, and requested him to let her go home. Sanjith told her not to worry, and assured that he would not harm her. He explained that he brought her there because he loved her. Due to the substance held to her face Ms. X felt weak and could hardly hear her self speak. She remembered vaguely looking at the time, and noted that it was 11:30 p.m. Sanjith then left the room and Ms. X heard Sanjith telling someone to arrange for a Marriage Registrar to carry out a marriage.

Soon after, Sanjith came into the room and asked for Ms. X's identity card, which she claimed was lost. Sanjith scolded her for losing her identity card and went out of the room. While Ms. X was alone in the room she saw a mobile phone charging on the windowsill. Still weak, she dragged herself to it and attempted to call home and her boyfriend. However the calls were not answered. A short while later, Sanjith came back to the room and asked Ms. X to get ready to go to Kurunegala, another town in the Central province. A woman brought some food for her to eat, but Ms. X refused. Upon her refusal to eat Sanjith shouted, and forcefully held her by her neck. He then forced her on to the bed, and raped her. Ms. X tried to scream for help, but her cries went unanswered. After that Sanjith left the room. Ms. X tried again to make a call, and this time succeeded in getting through to her boyfriend. However, she was not able to tell him the exact address where she was being kept. Ms. X could only cry till morning.

The following day, Sanjith asked Ms. X to get ready to go to the Police station. He intimidated her to say that she came out of her own volition. Upon arriving at the Dambulla Police station, Ms. X saw her mother and brother there. She cried when she saw them. A female police officer named Ms. Indrani initially refused to note down Ms. X 's complaint, but later wrote it. Throughout the period Ms. Indrani scolded Ms. X for accusing a poor boy, and told her that she would not be able to prove anything. The police officer got Ms. X to sign the statement, but did not read it. Another female police officer attached to the Women and Children's bureau named Ms. Jayantha, also scolded the victim. Three police officers Indrani, Jayantha and another unidentified one all together scolded Ms. X, and threatened by saying that they would shoot her to death unless she withdraws her complaint of rape against Mr. Sanjith and marry him. The police officers also threatened Ms. X's mother and brother to send Ms. X to prison for 20 years.

Thereafter, Indrani and Jayantha took Ms. X and Sanjith in a police jeep to the house where she had been kept. While on the way the police officers continued scolding her. When they reached at the house, the people who were present told the police that Ms. X had been happy at that house. They also informed the police that Ms. X had taken her meals and a bath, falsifying Ms. X's statement. The officers noted those details. As they returned to the Police station, the officers again intimidated Ms. X to withdraw her complaint. While passing through a wewa (water tank) on route, they

threatened to kill her and throw her into the wewa. After coming back to the Police station, following pressure from the relatives, the police sent Ms. X to a Judicial Medical Officer (JMO) for forensic examination regarding the complaint of rape. The JMO certified that she was raped. After that her mother took Ms. X to the Dambulla hospital. She received treatment in ward no. 8 for nine days, and was discharged on November 27.

Since the incident, the police have been insisting Ms. X to marry Sanjith and withdraw her rape case against Sanjith. Meanwhile on November 16, Ms. X's mother registered a complaint at the Dambulla Police station notifying that Ms. X was missing that night. However, the police did not take any action to rescue the victim since the complaint was lodged. Regarding the incident of abduction and rape by Sanjith, and subsequent inaction and threats from the police; Ms. X sent written petitions to the Chairman of the National Human Rights Commission, Chairman of the National Police Commission, Inspector General of Police, Senior Superintendent of the local Police and the Officer-in-Charge of the Women & Children's Bureau. In her petition she described the entire incident and requested their urgent intervention for justice and security. None of the authorities has taken any action against the alleged perpetrators responding to Ms. X's petition.

Ms. X requests that her abductor and rapist be brought to justice. The responsible officers of the Dambulla police should also be reprimanded for intimidating and harassing her and insisting her to marry the alleged abductor and rapist.

## **262. Adikari Arachchilage Ruwan Sampath Wickramasinghe: Suspicious death after being assaulted in prison**

The Asian Human Rights Commission (AHRC) has received information regarding the assault and subsequent death of a man in Wariyapola prison on December 22, 2008. He was severely assaulted by prison guards and left without medical attention even though he had sustained serious injuries. He was transferred to another prison where he was admitted to hospital but died shortly thereafter.

*(Based on the testimony of the victim's father Adikari Arachchilage Wickramadasa, 49)*

Mr. Adikari Arachchilage Ruwan Sampath Wickramasinghe, 23, an army officer, had been detained in Wariyapola prison for desertion and was scheduled for transfer to the Bogambara Prison on December 22, 2008.

Around December 18, prison officers in the Wariyapola Prison assaulted Ruwan. They left him alone, providing no medical treatment for three days despite sustaining serious injuries from the assault. He was then transferred to Bogambara prison where he was admitted to the Kandy Teaching Hospital. He died thirty minutes after admission. Informed of their son's death, Ruwan's parents rushed to the hospital but were not allowed to view their son's body. They claimed that even though the cause of their son's death, recorded by the Judicial Medical Officer, was not clear, no official or doctor explained anything to them. Ruwan's father claims that the officers in the prison

must take responsibility for his son's death and be punished accordingly. He made a complaint to the National Human Rights Commission on January 7, 2009.

*Additional information*

Mr. Adikari Arachchilage Ruwan Sampath Wickramasinghe, 23, left home to join the armed forces in 2008. He had been stationed in the front lines of defense. While serving as a Lance Corporal (No. 415649) attached to the 7th Gamunu Regiment of the Sri Lanka Air Force, he was shot and seriously wounded in a battle on June 28, 2008. After being shot, he dragged himself on his stomach for miles back to the safety of his camp.

He was then sent to hospital where doctors were unable to immediately remove the bullets from his body. Ruwan spent 21 days in hospital recovering physically and mentally from this ordeal. He was finally discharged from hospital and told that the bullets would be removed at a later date. He was given a few days of medical leave to visit his home.

When he returned to duty on July 27, 2008, he found that he was once again stationed in the front lines of defense. He informed his superiors that he found it difficult to function in the same manner as before because of the bullets lodged in his body. However, he was not afforded any concessions. Within a month, Ruwan again took leave to go home being instructed to report back for duty on September 28, 2008.

During his time on leave, Ruwan met with his superiors at army headquarters in Panagoda requesting a transfer due to his physical disability. However, he received no positive response. Ruwan told his parents that since it was almost impossible for him to function in the front lines in his prevailing physical condition, he would not report back for duty.

On October 25, he was arrested at his home, taken into custody and charged as a deserter. He was sentenced to three months imprisonment on November 19 and confined in Wariyapola prison.

## 2009

### **263. Govindaraj: Police allegedly torture men during interrogation**

The Asian Human Rights Commission (AHRC) has received information that police allegedly tortured a man, accused of murder, to force him to provide five names during interrogation in the Nawalapitiya Police station on January 9. All five men named were accordingly arrested. One man was allegedly tortured. The other four were put in remand prison despite the fact that these four were not at the crime scene in the estate when the murder occurred.

Mr. Govindaraj was arrested for the murder of Mr. Bandula Ariyapala, a businessman on January 9, 2009. After the arrest, Nawalapitiya police allegedly hung him from the ceiling and tortured him to reveal five names. Due to the severity of the torture, he finally named friends who had no knowledge about this murder case.

On the following day, Mr. Yogashwaran was arrested at a funeral home. The other four, named Johnsinghe Amaranayake, Micheal Karen, George, Tarjan, accompanied by their lawyer, surrendered themselves at the Police station. Yogashwaran was allegedly tortured for three days after his arrest until he was brought before the Nawalapitiya court on January 13.

It is reported that the four accused men, with the exception of Yogashwaran, were not in the estate when the murder of the businessman took place. Violence, however, had occurred in this area. Several houses where Tamil tea plantation workers lived were burned down and destroyed. Police allegedly attempted to accuse the five men in order to satisfy the minister Mr. Mahinda Andanda Aluthgamage who was supported by the late Bandula Ariyapala.

#### **264. Abesinhage Don Janaka: Police allegedly torture a man to get information**

The Asian Human Rights Commission (AHRC) has received information regarding the torture of a youth by officers attached to Moragahahena police for the purpose of obtaining information on February 2, 2009 in Sri Lanka. The youth sustained injuries as a result of which he had to undergo treatment at prison hospital.

*(Based on the testimony of the victims brother Abesinhage Don Sampath and the victim Abesinhage Don Janaka)*

Around 9:30pm on February 2, 2009, when Janaka was talking with two other persons near the Polwatte Meditation Centre, two police officers, Anura (27061) and Aruna (424) of the Moragahahena Police station came on a motor cycle. They Janaka and his two friends what they were doing and searched them.

During the search, they found a bullet in the purse Janaka was carrying and wanted to know from where he had got it. Janaka replied that he had picked it up from the road. The officers did not believe him and insisted that if he had a bullet he should also be having a gun. Without credible evidence that he possessed any firearms, they took Janaka to the Police station.

At the Police station, police officers Anura (27061), Aruna (424) and Jayalath (41099) indiscriminately assaulted him. While torturing him, these officers kept asking from where and from whom he had obtained the bullet. Janaka claims that the three police officers make him lean against the wall and punched and kicked him. Later, they made him lie down in a sleeping position on the floor and continued to assault him. Finally he was put in a cell.

Officers Anura and Aruna then took him before the Officer-in-Charge who told them to produce Janaka in court. Then they took him to the same room where they initially assaulted him and assaulted him again. After which they put him back into the cell.

That night, officer Anura took Janaka out of the cell to the same room and tortured him again. He told Janaka to sit on the floor near a table and he wrote down details with regard to his name and address. Then, telling him to stand up, the officer assaulted him on his hands and head using a length of hose. He also assaulted Janaka with his fists. Thereafter, the officer told him to lie on the floor and trampled him before putting back in the cell.

While being tortured, Officer Anura threatened Janaka, telling him that he should say he received his injuries while evading the police. Thereafter, he was forced to sign a document which he was not allowed to read. The officers did not explain its contents. The police also took his finger prints. According to Janaka, he was in great physical pain. His ears were blocked and his neck was swollen and he could not turn his head.

On February 3, Janaka was produced before the Circuit Magistrate's Court Bandaragama, which ordered him to be remanded till February 11. He was then remanded at the Kalutara Prison where he told the officials that he had been assaulted by the Moragahahena Police. His face and neck were swollen and he had injuries inside his mouth. Janaka was then admitted to the Prison Hospital where he received medical treatment till February 9.

On February 9, Janaka was produced before the Horana Magistrates Court where he admitted that he was in possession of the single bullet and was fined with Rs. 5,000/= (USD 43). While Janaka was still in remand custody on February 5, Janaka's brother, Abeysinghe Don Sampath informed this incident to the relevant government authorities including National Police Commission and Inspector General of Police.

On March 2, after Janaka was released from prison, Janaka personally informed this incident to the same authorities requesting them to take due disciplinary and legal action against the erring officers of the Moragahahena police.

On March 2, Janaka's brother was called by the Senior Superintendent of Police (SSP) Kalutara for an inquiry with regard to the complaint he made on behalf of his brother on February 5. Since Janaka was released on bail, Janaka presented himself at the given time and place for the inquiry at the SSP's office. However, no inquiry took place and Janaka was told that the SSP had not reported to work. Janaka also notified this situation to another SSP Mr. H. M. Dharmasena on 5 March.

#### **265. Anuradha Buddika: Police arbitrarily detain parents and torture father till son is handed over**

The Asian Human Rights Commission (AHRC) has received information that the Minuwangoda police arbitrarily arrested some parents on the 17 February and held them as hostages until their son surrendered himself to the police. In the police station, the father was allegedly tortured in the lock up while the mother was prevented from leaving the station. When the son was handed over to the police some days later, he was also allegedly tortured and the mistreatment resulted in a broken leg.

The police later threatened the son, telling him not to reveal this at the court.

*(Based on the testimony of Samarawickrama Gunersekara Arachchige Dayananda, 56)*

Samarawickrama Gunersekara Arachchige Dayananda is the father of Anuradha Buddika. Anuradha was living together with his girl friend in her house with the consent of her parents.

On 10 February 2009, at about 7:30pm Anuradha telephoned his father and told him that thieves have entered his girlfriend's house and had stolen some jewelry. He asked his father if he could accompany them since they were all going to the Minuwangoda Police station.

The relations of Anuradha's girlfriend went to the Police station and after making the complaint with the police went back to the house. At the house the father of Anuradha's girlfriend told police that Rs. 50,000 (USD 438) worth of jewelry had been lost. After that Anuradha's father returned home.

On 13 February Anuradha went to his parent's home and told them that he had argued with his girl friend's father who had told him to leave and not return. Anuradha further told his father that his girlfriend's parents suspected him of the theft. Later that day Anuradha's parents found him lying unconscious in his room after taking 48 panadol tablets (pain killers) in an attempt to commit suicide. They immediately took him to the Gampaha Base Hospital. As his condition was not good he was transferred to National Hospital Colombo. While he was recovering slowly, he left the hospital on 15 February and his parents had no idea of where he had gone.

On 17 February at about 11pm the Minuwangoda police went to Anuradha's parents' house and inquired about his whereabouts. Anuradha's father told the police that Anuradha had been admitted to the hospital from where he had left and thereafter he had no idea of where he might be. The officers took Anuradha's father to the Minuwangoda police station saying that they would find Anuradha and until then they needed a statement from his father. At the police station they did not take any statement from the father but instead locked him in a cell.

On the morning of 18 February, Anuradha's father was questioned by a police officer Somajith about the lost jewelry. The father answered that he did not know anything about it. However, he was handed over to another police officer at 9am who took the father into a room in the Police station with some beds, to one of which the father was handcuffed. At around 12 noon a police officer hit the father on his neck, ears and head asking about the whereabouts of his son Anuradha. Another officer kicked the father on his chin. The father was kept in handcuffs till 6pm.

After that the police took Anuradha's father to the police cells to lock him up. While walking to the cell the father saw his wife seated on a bench in the Police station. She told the father that she came to see him at about 7:15am and police forced her to stay at the Police station saying that she too will



not be allowed to go home until they hand over their son. The mother was not allowed to go out to have food or water and she was not even allowed to go to the toilet. She eventually leaked urine where she sat. Her legs were swollen and whenever she tried to stand up she was shouted at by the police.

As the parents did not return home their elder son came to the Police station inquiring about them. He was chased out saying that if he turned up again he would also be locked up, so he left the Police station without speaking to his parents. When Anuradha's mother tried to speak to her son she was also shouted at and ordered to remain where she was. During the night the father was locked in and the mother was kept on the bench outside. They were not given food or water for the whole day and even during the night.

On 19 February, the officers who came for duty provided them with food and water. But they were kept like that at the Police station during that day too. The father was taken out and produced in front of the Officer-In-Charge (OIC) by the police officer Somajith on February 20. The OIC inquired from the father about the whereabouts of Anuradha. When the father told that he did not know anything, he was hit on his ear and shouted at. He was told that they would not be allowed to go unless their son was produced. That day too they were kept in the same manner in the Police station.

On 21 February, the elder son found where Anuradha was staying and handed him over to the police through a lawyer. After that his parents were released.

From 21 to 26 February, Anuradha was illegally detained at Minuwangoda Police station and tortured asking about the lost jewelry. On 25 February an aid in the Police station telephoned the parents and informed them that Anuradha had broken his leg after falling into a lavatory pit. The father rushed to the Police station and inquired about the incident. Anuradha who could not walk told him that he would explain about it later, but until then to get him some treatment.

After that the father informed the Human Rights Commission of Sri Lanka. When the HRC called the Police station, the police informed that they would produce Anuradha in court that day. However, the police produced Anuradha before the Minuwangoda Magistrate Court at 4:30pm on February 26. Anuradha was remanded until March 4. Then again when he was produced he was remanded until March 18.

Anuradha's leg was broken due to the police torture. He never told the courts because he was threatened that if he complained the whole family would get into trouble.

The parents had made complaints to the Inspector General of Police, the Human Rights Commission and National Police Commission, demanding an inquiry into the illegal detention of the parents and the son at the Police station, Ill treatment to the parents and the torture of the son.

**266. Sunil Shantha: Police allegedly torture a man; his lawyer receives threats from police**

The Asian Human Rights Commission (AHRC) has received information that the Meegahatenna police allegedly tortured a man on March 1, 2009 in Sri Lanka. After the torture, police manacled him for two days without providing water, food or bathroom facilities. They finally forced him to sign a statement with no explanation. His legal representative failed to appear before the court due to police threats.

*(Based on the testimony of Sunil Shantha the victim)*

When three police officers in civilian clothes came and asked for Sunil Shantha at 2:30pm on March 1, 2009, Shantha, dressed casually only in his sarong, came forward identifying himself. One officer suddenly grabbed him by his stomach, squeezing tightly, while the other two officers grabbed him by his sarong from the back and forced his hands to the back. The person who asked for Sunil Shantha, later identified as Sub-Inspector (SI) Senaviratne, then assaulted him on the face, back and stomach. However at this time, the officers did not identify themselves as police officers nor did they tell him why he was being assaulted.

Thereafter, they dragged him along the road to where a police jeep was parked. They continued assaulting him all the way. When they made him get into the jeep, Sunil Shantha asked them who they were. He was told by the SI Senaviratne that they were from the police. In the jeep, they made him sit on the floor and manacled his feet.

When they arrived at the back of the Meegahatenna Police station at 3:15pm, they asked Sunil Shantha to get out of the jeep. When Shantha pleaded that he was unable to get down due to the manacles on his legs, the SI Senaviratne assaulted him with a pole. Shantha somehow managed to drag himself out in order to avoid being assaulted. Then, the SI commanded him to walk into the Police station. While Shantha again pleaded to take off the manacles from his feet so that he could walk, the SI merely assaulted him again. Shantha had no means to keep his hands off the floor. He walked like an animal, on all fours, into the room of the Officer-in-Charge (OIC) who ordered him to be taken to the Crime Branch. The OIC asked the SI to remove the manacles from his legs. (At this time, Shantha got to know the name of the said SI)

The OIC asked for a rope and a pastle (a thick pole made of Kithul wood used to pound grain). The OIC then ordered Shantha's hands tied with the rope. The pole was put through his arms and legs and then lodged between two tables. He hung on it curled up like a cart wheel with his head down and his feet up. This method of hanging is locally and ironically referred to as the Dharma Chakra or the Wheel of Law.

The OIC indiscriminately assaulted Shantha on his back and upturned feet and turned him about three rounds while holding his legs. The OIC assaulted him on his neck which had recently undergone a surgical procedure. Shantha screamed in great pain but it was of no use. Shantha was continuously asked to return stolen goods. He denied the allegation. The time was 5:30pm.

The OIC left the room and two other officers who had been there initially at his arrest untied him and made him sit on the floor. They manacled his left leg to one of the table legs and his right hand to another of the table legs and left him in that position for two days till 4pm on March 3. During this time he was given neither food nor water and not allowed to go to the bathroom. While in this position the SI took down a statement from him, forcing him to sign it, without explaining or showing him what was written.

Subsequently Shantha was taken to the Meegahatenna Hospital by the SI and another officer. When he was examined, Shantha told the doctor that he was in great pain and that he was assaulted by the police. The doctor gave him some tablets to be taken immediately, and gave a chit to the officer to be given to the hospital ward on admission.

However, Shantha was not admitted to the ward but instead taken back to the Meegahatenna Police station and made to sit on a chair. At about 5:30pm the SI and another two officers produced Shantha before the Mathugama Magistrate. The SI then threatened Shantha of the consequences if he dared to tell the Magistrate that he was assaulted by the police. At the Magistrates, Shantha found out that two cases of theft and one case of assault had been fabricated against him. He was remanded until March 11, 2009.

Attorney-at-law Ms. Jayawardena represented Shantha. She informed the Magistrate that Shantha had been severely assaulted by the police and that he needed medical care. The Magistrate ordered that Shantha be referred to the Prison Hospital in Kalutara, where he received medical treatment until March 11. When the case was called up again in court, his legal representative did not appear for Shantha. She later informed his family that she was unable to do so due to threats made by the police. Two other lawyers appeared for him that day. Three surety bails were ordered amounting to Rs. 100,000/= (USD 878) each and cash bail of Rs. 15,000/= (USD 131). Since it was quite late that day and bail could not be furnished he was again sent to prison until March 13. On March 12, bail was furnished and on 13 March 2009 Sunil Shantha was sent home.

Falling sick from time to time as the result of his torture, Shantha has again been admitted to hospital.

On March 16, a written complaint regarding this case was sent to the chairperson of National Human Rights Commission and National Police Commission, Inspector General of Police, Attorney General and Senior Superintendent of Police Kalutara.

*Additional information*

In 2004 Sunil Shantha had helped the police on a raid of several illegal gambling dens. As a result of this in May 2004, he was attacked by the owners of the gambling dens. The left side of his neck was cut with a knife and he had to be admitted to the hospital. Surgery had to be performed and he was under treatment for about three weeks.

Later, Sunil Shantha became aware that the police themselves were responsible for leaking information that he had given them about the gambling dens.

Sunil Shantha then decided to settle the matter with the police and gave them Rs. 10,000/= (USD 87). The Police however were angry that he wanted to settle the matter for a mere Rs. 10,000. They felt a sum of at least 200,000/= (USD 1,756) could have been extracted from him. Sunil Shantha says the intention of the police was that they all share in the money received from him.

According to Sunil Shantha, cases were fabricated by the police to take revenge on him. As of March 16, his case with regard to the accusation of theft had been postponed at the Mathugama Magistrates Court at least 4 times. Those who made the complaint have not come forward.

Furthermore, Sunil Shantha says that due to the severe injury on his neck, he became disabled to the extent that he cannot take care of himself and is being looked after by his sisters.

### **267. Loku Naramgodage Shantha: Police allegedly torture and ill-treat a man**

The Asian Human Rights Commission (AHRC) has received information regarding an alleged illegal arrest, torture and ill treatment of a man by a Sub Inspector of police attached to Meegahatenna police on March 2, 2009 in Sri Lanka. He was manacled to a door throughout the whole night in a standing position. As a result of the assault and ill treatment, he vomited blood and fainted.

*(Based on the testimony of Loku Naramgodage Shantha)*

On March 2, 2009, at about 4:15pm, when Shantha came home from work, his neighbour Anuruddha came demanding to know if he knew anything about the theft that had taken place in his house. Anuruddha insisted that Shantha knew about the theft. He took hold of Shantha by the collar and assaulted him on the mouth, face and chest and shouted "Sub Inspector! I have caught the thief." When he shouted this, a person dressed in civilian clothes hiding close to a bridge nearby, came out. This person then threatened Shantha not to try and run and handcuffed him saying that he is from the police. Taken aback, Shantha asked what all this was about. He was accused of taking stolen goods from Anuruddha's house and was told to return them.

Then saying that they will look for the stolen goods, the Sub Inspector (SI) and Anuruddha took Shantha to a house in the vicinity, belonging to his brother in law, which was locked. They searched the empty house all the while threatening Shantha to return the stolen goods.

Shantha pleaded that he did not steal any goods and that he lived by picking coconuts. The SI, taking a pole which he had picked up from Shantha's house, told Shantha to raise his manacled hands over his head and keep them on the wall. He then beat him on the spine and on the chest.

Thereafter Shantha was taken to some neighbouring land to a locked house belonging to Nimal Pitigala. This house too was examined. Then he was taken near the house of Anuruddha where a police three wheeler pulled up. The SI hit Shantha with the pole again and told him to get into the three wheeler. They drove towards an area known as Bothalawa, saying that there was one more person to be caught.

Keeping Shantha with a Grama Arakshaka officer (a para military officer) who drove the three wheeler, the SI and Anuruddha went towards another house. Sometime later they returned stating that the fellow had run off on seeing them coming.

Then they drove to the Meegahatenna Police station, where Shantha was manacled to the grill of the door of an arms and ammunition store. Anuruddha had come along with them too. It was about 7pm. Shantha was kept like that until the next day. He wanted to go to the bathroom but was not allowed to do so. Shantha got to know that the SI who assaulted him was named Senaviratne.

The next day on March 3 at about 6:30am, Shantha pleaded with the Reserve Officer to let him go to the bathroom, and was allowed to go with a Grama Arakshaka officer. However on the way Shantha vomited blood and fainted. The last thing he remembered was that the Grama Araksahaka officer was shouting that he had fainted.

When Shantha regained consciousness on March 4, he was at the Nagoda Hospital. He got to know that he had been taken to the Meegahatenna Hospital where they had refused to admit him and referred him to the Nagoda Hospital. Shantha received treatment in ward 7 until March 9.

At 8:10am on March 4, the Magistrate visited Shantha at the Hospital. The SI Senaviratne also came. Shantha related the incident to the Magistrate. Shantha stated that SI Senaviratne had assaulted him. The Magistrate then made inquiries about the assault from the doctor who pointed to several places on Shantha's body. The Magistrate made note of this.

SI Senaviratne then took a statement from Shantha. He told him not to be afraid and he would not send him to remand. He would soon be able to go home and that he will come and see him at his home. SI Senanviratne voiced regret that he had wronged Shantha and left.

A little later a Grama Arakshaka officer came and asked Shantha what he needed. Shantha replied that he did not need anything. Then a doctor said that since Shantha smelled of trees he should clean up and to bring some clean clothes for him. The Grama Arakshaka officer then stated that the SI had given him money to buy anything Shantha needed, so he went and bought a new sarong for him. Later, again saying that the SI had given him money he bought him a t-shirt. While Shantha was

at the Nagoda Hospital a Grama Arakshaka officer and a police officer were stationed at his bed side.

On the afternoon of March 6, the prison officials took charge of Shantha and he continued to receive treatment at the Prison Hospital in Kalutara till March 9.

On March 11, Shantha was produced before the Mathugama Court. Shantha said that he was not aware of the charges against him. A surety bail of Rs. 100,000/= (USD 878) and a cash bail of Rs. 5,000/= (USD 43) was ordered. Since it was quite late that day, it was not possible to furnish these requirements, so Shantha was again remanded to prison. Bail was furnished and he was released on March 13. The case Number in question is BR 334/09.

Shantha says that he has to go to the Nagoda Hospital again to continue medical treatment on April 1. He also says he needs to receive x-ray treatment and an injection. He further says that he is disabled and cannot work now because of the direct assault of SI Senaviratne of Meeghatenna Police.

Shantha requests that due disciplinary and legal action be taken against SI Senaviratne for illegally arresting him on the instigation of the person named Anuruddha, assaulting him, and thereby disabling him.

On March 16 a written complaint about the said incident was sent to the Chairperson of National Human Rights Commission and National Police Commission, Inspector General of Police, Attorney General and Senior Superintendent of Police Kalutara.

### **268. Ramanayakage Nishantha Perera: A man and his family are tortured by police**

The Asian Human Rights Commission (AHRC) has received information about an alleged incident of torture involving the Kamburupitiya Police on 5 March 2009. Ramanayakage Nishantha Perera was badly beaten, falsely charged and sent to prison after lodging a complaint against his neighbours during a land dispute. He was not given medical treatment despite it being recommended by two doctors, and his pain in jail was prolonged with the denial of bail, and further torture. Perera's family have been harassed and threatened by the same officers. The case exemplifies a bullying form of brutality currently flourishing in and around Police stations in Sri Lanka.

*(According to the victims)*

The first victim: On March 5, 2009 Ramanayakage Nishantha Perera was called to the Kamburupitiya Police station regarding a call he'd made the day before to 119, the emergency police service in Colombo. Perera had reported that when he went to lodge a complaint about a land dispute with his neighbour, officers at Kamburupitiya station were biased and literally chased him

away.

Perera went to the station at 9am with his mother, Seetha Wijenayake Pathirana and his grandfather, Wijenayake Pathinage Karolis. The opposing party, Yakkalage Thushara, and his mother were also there and they were all called in to the room of Officer In Charge (OIC) Kaldera, where Thushara and his mother were offered chairs. Perera and his party were left standing.

According to the victim, Kaldera then examined the deed of ownership presented by Perera and started to verbally abuse the complainants, shouting that he can't solve such matters, that they could 'complain to Colombo or any place' but must give the land to their neighbours or he would beat them until 'the milk you drank from your mother comes out of your mouth'. He then brought a pole--thicker than the handle of a broom and about 3m long--from the next room and personally started to beat Perera with it, on his head and his body. According to the victim, Sub Inspector (SI) Premadasa and a sergeant, later identified as a court sergeant, kicked him from behind; he took a particularly heavy blow to his head when he fell against a wall. The OIC challenged the mother and grandfather to 'try and do something' if they could.

After this assault the OIC forced Perera to sign a piece of paper—also signed by the other party—then kneel on the ground facing his neighbours with his hands clasped in a beseeching manner. He then told SI Premadasa and the court sergeant to take Perera to hospital. It was about 11am and Perera was taken by five police officers in a jeep to the Aadapana Government Hospital, Kamburupitiya, in handcuffs.

On arrival SI Premadasa reportedly spoke to a doctor in private and when Perera was called the doctor did not examine him, but asked if he was in pain. The victim said that he was in severe pain; his body and head were swollen and that he had vomited twice. The doctor told SI Premadasa that Perera should be warded, but after speaking with the OIC by phone, SI Premadasa took Perera back to the Police station.

At around 3:30pm at the station Perera was told to give a statement regarding the land dispute, and he was charged by Kaldera with obstructing police duties. At about 5pm Perera was taken by jeep with three other police officers and produced before the magistrate of Matara. Attorney-at-law Sisira Kumara represented Perera, and informed the magistrate that he had been assaulted by police and needed medical treatment. The magistrate ordered that Perera be given medical treatment and that a judicial medical report be obtained. However instead Perera was taken to Matara Prison. While handing him to the prison officers, the court sergeant reportedly told them that the police had assaulted Perera because he was trying to claim ownership to land belonging to a relative of the police, and that the prison officers should also give him a beating. After being admitted at the gate Perera was indeed beaten by the prison guards before being told that he'd had enough punishment that day.

That night he was put to an overcrowded ward known as the 'dal wattuwa' (mesh ward), and was given no food. Perera was in such pain he couldn't sleep. The next morning he was taken to another room and stripped, where he believes he was deliberately humiliated on the pretext of prison procedure: taking measurements and recording birthmarks. The officers used abusive language and gave Perera a number - 501. Perera was then taken to the prison hospital where he had to sleep on the floor because there were no available beds.

On March 9, after three days in prison Perera was examined by the prison doctor. Though the swelling across his body had gone down the doctor asked him to be taken immediately to Matara Hospital for intensive treatment. He was taken by two prison guards by bus and shown to an outpatient doctor who ordered that Perera be warded immediately. The guards told Perera that they would admit him to the ward, but that he should 'support' them with some cash. Perera then used one of the guard's mobile phones to talk to his home and tell them to bring the requested Rs 1,000 in bribes. Perera's wife brought Rs. 700, which was given to the guards.

Perera received treatment for five days in ward two of the Matara Hospital. On 14 March he was discharged and taken back to Matara Prison, where he was put in the Maha wattuwa' (big ward), and denied the medicine prescribed to him by the hospital.

On 17 March he was produced at the Matara Magistrates' Court, represented by Attorney-at-law K.A. Jayantha, however police opposed bail and he was taken back to the prison. This happened again on 31 March. On 4 April Perera was released on a surety bail of Rs. 50,000 and personal bail of Rs. 50,000. The second victim: Perera's wife Kavulpana Polgastheniyage Ashoka Pushpalatha (to be referred to as Ashoka) reports that when Perera was assaulted and imprisoned on May 5 she went to the Kamburupitiya Police station with her mother-in-law and the couple's daughter. Since they were not allowed to see Perera, they phoned the National Police Commission Matara branch to complain, visited their office and then made formal statements at the Matara Senior Superintendent's office. They were then able to see Perera at the Kamburupitiya station later that day, and report seeing him sitting on the floor of a prison cell in severe pain. Perera told them that he had been inhumanly assaulted by OIC Kaldera.

Ashoka was at home on 18 March at about 6pm when three officers from the Kamburupitiya Police station (Kaldera, an officer called Anjula and another) arrived in a three wheeler, shouting for the door to be opened and for Ashoka to come forward. When she did, the officers forced themselves inside the house. According to the victim OIC Kaldera shouted that he had 'the power to enter any house' and gripped her by the neck in front of her 16-year-old son. He then berated her for making her complain to the NPC, making taunting comments, while threatening that if they went to his superiors again, the family would be locked inside the house and killed. He declared that they did



not know ‘what kind of a man he was’. When Ashoka’s son shouted during the assault, he was also taunted with the instruction to get his horoscope, for it would read that he would soon be going to prison like his father, and would be prevented from finishing school.

The third victim: Ashoka’s brother J.D. Samantha, his wife and their child came to stay with and support Ashoka and her children, who were now too afraid to live alone. However OIC Kaldera returned to the house, calling for ‘the stranger’ who was living there to show himself. Kaldera demanded to see Samantha’s National Identity Card, and then took him to the station in a three wheeler, without making any charges. On the way Samantha reports that the OIC boasted of various kinds of abuses he had inflicted on Sri Lankan citizens, including women and children.

At Kamburupitiya Police station Samantha had to wait for two hours, and had abuse shouted at him whenever he tried to move or inquire. When he saw his sister and niece enter the OIC’s office he insisted on joining them, and was again insulted by Kaldera, who told him that Perera would not be allowed bail. Samantha was told to leave his sister’s house immediately, otherwise he would be arrested, and Ashoka would be fined Rs 5,000. When they left the station Samantha was told to return, which he has not done for fear of illegal arrest and torture.

On 8 April 2009, three separate written complaints signed by the three victims setting out the details of the incident was sent to the Chairman of the National Human Rights Commission, Chairman of the National Police Commission, the Inspector General of Police, and the Senior Superintendent of Police of Matara.

#### *Additional information*

This long list of rights violated and crimes committed by police officers against just one family points to a system that has stopped working. In this one case we see police abusing their power, both randomly and for the material gain of other civilians; collusion between station officers and prison officers in carrying out extrajudicial punishments; and the denial of a man’s right to health used as a form of torture. We see police able to file a false charge and continually deny bail. The OIC’s complete dismissal of a court order shows the breakdown of authority and his dismissal of doctors’ recommendations shows a breakdown of accountability and judgment. The stalking and abuse of complainants—in this case women and minors—at home is a particular low point. This case is a good example of what happens when checks and balances are abandoned, and unrestricted power is allowed to corrupt figures of authority.

It should be noted that Sri Lankan citizens are protected against torture and arbitrary arrest in sections 11, 12 and 13 of the Democratic Constitution of Sri Lanka. Sri Lanka became party to the United Nations Convention against Torture and Cruel and Inhuman Treatment in 1994, at which point it became obliged to seriously punish any perpetrator of such crimes with at least seven years

imprisonment or a minimum penalty of Rs 10,000. Custodial violence and denying an injured person medical treatment are both forms of torture.

You will also find under the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by General Assembly resolution 43/173 in 1988, that Principle 24 enshrines the right of detained persons to a prompt and proper medical examination and any resulting necessary care, whenever necessary.

Apart from the above legislation, the Human Rights Commission and the National Police Commission has been set up to provide redress to victims of torture. The mandate of both these mechanisms is to take steps to minimise torture and to be of service to victims of torture.

### **269. Tharidu Nishan: Police torture and fabricate charges against a young man for revenge**

The Asian Human Rights Commission (AHRC) has learned that a 21-year-old man has been badly tortured by police and is facing two fabricated charges for theft and sexual assault due to a personal dispute. The officer leading the series of violations is father to the victim's ex-girlfriend, who he had reportedly hit earlier last year. There are grave concerns that the officer is abusing his position for personal revenge, and the young man remains in danger of further abuse and imprisonment for crimes he did not commit. Torture has been criminalised in Sri Lanka, yet is rarely considered in court.

On the 28 March 2009 between 3 and 4pm a Sergeant Jinasiri and a Constable Anura asked Tharidu Nishan, 21, to join them at Akuressa Police station to discuss a motorcycle for sale. When he arrived they began to interrogate him about an incident days earlier in which he had slapped his girlfriend; the girlfriend was Sergeant Jinasiri's daughter. The officers also brought in Tharidu's friend, Nuwan Madusanka, who had been with him at the time of the dispute. The two were asked about a chain that they were supposed to have snatched during the incident and both denied the theft, though not the assault. According to the two young men and to Tharidu's father, an eyewitness, Sergeant Jinasiri then slapped them both and told them that they would be punished for hurting his daughter. The two were taken into police custody. That day at about 6.30pm two police officers reportedly stripped the men naked in the Police station, tied their hands and feet together and allowed Sergeant Jinasiri to beat the heels of their feet with a wooden baton. He demanded that they confess to the theft of a necklace. Police scattered a substance like salt on the floor and forced the two to jump on it for about ten minutes. Tharidu was also subjected to a form of water torture, which simulates drowning, using a hose.

On 30 March after two days of illegal detention a constable (bearing the No.16350) asked Tharidu for detailed information about his neighbourhood and wrote in a book, which he later asked Tharidu to sign without reading. Tharidu refused to do so. We are told that the officer hit him with a

wooden pole and threatened to frame him by planting explosives in his three-wheeler vehicle; Tharidu and Nuwan both signed the book.

At 9.30am the men were finally taken to Morawaka Magistrates Courts (Case No.7954). The police have alleged that Tharidu snatched a necklace (valued at Rs.22,000) from his former girlfriend, and that a piece of the chain was found in the possession of Nuwan. The young men's lawyers informed the Magistrate of their assault, who asked to see the wounds and correctly ordered their examination by a Judicial Medical Officer in Matara General Hospital before they were sent to remand prison until 19 May; police obstructed their chances of posting bail.

After their release the two were ordered to report to Akuressa Police station each Sunday. However six months later on one such Sunday we are told that Tharidu was faced with further charges: the sexual assault of a woman he had once carried in his three-wheeler. We have been told that the female victim herself has denied Tharidu's involvement, however he was placed in a cell, produced at Matara Magistrate Courts and remanded (Case No. B.R.2547). He was released on bail on 8 December, after a month. At the time of his second arrest we are also told that PC Anura made motions to beat Tharidu but was halted by a reminder from SI Mahinda, that Tharidu had filed a case with the Human Rights Commission.

Tharidu must currently visit the police station each Sunday, and reports that each week he is subject to harassment by officers there. Please join the AHRC in calling for the officers allegedly involved in torture to be thoroughly investigated. Those who are proven to have abused their positions of authority by engaging in torture, perverting the course of justice and fabricating charges, must face legal penalties and immediate dismissal from the force. Torture is illegal in Sri Lanka and must be investigated under the CAT Act No. 22 of 1994.

#### **270. Thalagala Pahalage Solomon: Failure of medical examination in a case of police torture**

The Asian Human Rights Commission (AHRC) has received information that police attached to the Bulathsinhala Police station allegedly assaulted a man and cut his hand with a knife while questioning him even though the police had full control of him on 12 April 2009. When the man was brought to the Bulathsinhala Hospital, a District Medical Officer ignored his condition and failed to examine him.

*(Based on the testimony of Thalagala Pahalage Solomon and his son Thalagala Pahalage Ranjith Keerthi Kumara)*

On 12 April 2009 Mr. Solomon, a labourer, went to the regular Sunday village fair in Bulathsinhala. At 2:39pm he was about to return to the place where his bicycle was parked after he had a disagreement with his wife. When he was close to the temple near the fair, two police officers on duty at the fair came from behind and shouted at him to halt. They asked him why he had hit a woman while one officer held him by his collar. Solomon said that the woman was his wife with whom he had a quarrel. But the officers started to assault him mercilessly. Solomon fell due to the

assault and whenever he tried to get up the police assaulted him with their fists and boots. The police assaulted him on his body, head, ears, and back. When Solomon gave up trying to get up, the officers began to pull him up and continued to assault him. Solomon identified the two officers bearing Police Identity Numbers 77672 and 82079.

Another officer named Jayantha dressed in civilian clothes came on a motor cycle bearing number MI 9547. This officer joined in the assault and then instructed the two officers to take Solomon to the Police station. Jayantha picked up Solomon's bag that had been left on the ground and saw a knife inside the bag that Solomon used to cut grass and trees for his living. Coming back, Jayantha started to attack Solomon with the knife. He slashed Solomon's hand many times demanding to know if Solomon had used this knife to attack the woman. Thereafter, Jayantha asked the two officers to take Solomon to the Bulathsinhala Hospital.

Solomon was given emergency treatment by the District Medical Officer (DMO) at the Bulathsinhala Hospital. His hand was stitched and then he was transferred to a ward. The two officers stayed by his bed side while Jayantha came from time to time. In the evening the DMO asked Solomon who had assaulted him. Solomon told that he was assaulted by the police. The DMO did not believe him and said that the police do not assault people in such a brutal manner. Solomon continued to explain how he was assaulted and showed the doctor the places of his body that had sustained injuries due to the assault. But the doctor did not take notice of his statement and did not examine him further. He only treated the injury on Solomon's arm which had to be sutured.

The following day, the DMO again asked Solomon who had assaulted him. When Solomon reiterated that the police had assaulted him the doctor had asked him to get ready to be transferred to the Horana Hospital. Later Solomon was transferred to the Horana Hospital by ambulance. The hospital authorities at Horana did not ask him any questions, they treated his hand and discharged him on April 14.

According to Ranjith, Solomon's son, when he went to the Hospital he saw his father on a Hospital trolley and two officers dressed in police uniform and another in civilian clothes near his father. He noticed that the officer called Jayantha had blood on his trouser leg. Jayantha then told Ranjith that his father has been cut by a knife and asked if he could be taken by a three-wheeler to the Horana Hospital. Jayantha had further said that Solomon had hit his wife with the knife and was running away when the police officers apprehended him and since he had already been attacked by someone and was bleeding they had brought Solomon to the hospital.

At that point however Solomon had interrupted them saying that it was Jayantha that had cut him with the knife. Then, Jayantha had scoffed that there was no need for him to cut up Solomon with a knife and hit. Ranjith says that he noticed that at that time Jayantha was very drunk. Jayantha then

asked Ranjith to bring Solomon's wife to the Police station to make a statement. He asked Solomon's wife's and son's names and asked an attendant there to note them down.

Ranjith then went to the Bulathsinhala Police station with his mother. Jayajtha was there and personally took down her statement. This statement was with regard to the quarrel that her husband had with her at the fair. He asked her if she had seen her husband being attacked with a knife. She answered in the negative. He then threatened her saying that Solomon was saying that it was the police who assaulted him and that if he continued to say so, "we know what to do". Jayantha then forced her to sign the statement without reading it to her or explaining its contents.

Ranjith further says that on April 13 when he went to visit his father in the hospital, a patient in the next bed told him that the DMO who had examined Solomon that day had not believed him when Solomon had stated that he had been assaulted by the police and that Ranjith should go and talk to the DMO about it.

When Ranjit met the DMO, the DMO then instructed him to lodge a complaint at the Police station regarding the police assault and bring that form to him. At the Police station this complaint was entered under the same number of the former statement made by his mother. However, when he brought the form to the DMO, Solomon had been already transferred to the Horana Hospital to which he was instructed to hand over the form. Accordingly Ranjith handed over the form to ward No 7 of the Horana Hospital where Solomon was being treated. Solomon was discharged on April 14 but was informed that the hospital officials were not able to tell him when the Judicial Medical Officer (JMO) would be able to examine him.

At 11am on April 16 the two officers who had assaulted Solomon initially came to him at his house. Ranjith was also there. They were both dressed in uniform. They wanted to know what steps Solomon intended to take with regard to the incident. They requested if the matter can be settled they would accept that they were at fault. On April 17, Solomon informed of the incident in detail by a written complaint to the Chairperson of Human Rights Commission, Chairman National Police Commission, Inspector General of Police and Senior Superintendent of Police Kalutara. On April 19, Solomon and his son Ranjith went to the Bulathsinhala Police station at 3:30pm as they had been requested to come by the Bulathsinhala Police and made a full complaint about the incident.

They were again called to meet the Officer-in-Charge (OIC) at 8:30am on April 20. The OIC then accepted that Jayantha had cut Solomon with the knife and that Jayantha was in fault. The OIC requested to know how much money as damages they wanted. When Solomon said that he was unable to tell such a sum, the OIC instructed him to talk it over with his wife and decide.

On April 21, Solomon went to the Horana Hospital again for treatment. The bandage on his hand was removed. When he asked when he would be examined by the JMO he was told that hospital authorities were unable to tell when the JMO would come. So far, Solomon has not been examined

by the JMO.

On April 24 a written complaint was again sent to the Chairperson of Human Rights Commission, National Police Commission, Inspector General of Police and Senior Superintendent of Police Kalutara.

A complaint to the Medical Council of the Sri Lanka Medical College was also made about the professional negligence of the Doctor who examined Solomon.

**271. Lectchchaman Punyamoorthi: Police officers torture and frame a young man who has been in remand prison for a year** The Asian Human Rights Commission (AHRC) has learned that a young man was taken into a Police station and tortured after he displeased local criminals. He was reportedly framed while in custody, fabricated charges were taken against him and he has been in remand prison since April 2008. The case suggests cooperation between an illegal network of alcohol vendors and the police.

*(According to the victim and his mother)*

According to information we have received, Lectchchaman Punyamoorthi (21) angered a ring of illegal alcohol vendors early last year when he asked them to stop selling to his father, who he says was a heavy drinker and prone to domestic violence.

On April 5, 2008 the group abducted Puniyamoorthy and took him from his home to an abandoned house, where he was tied with up a rope and forced to drink their alcohol. The group called the police and accused Puniyamoorthy of selling it himself.

According to the victim he was tortured at the Police station shortly after his arrest: he was forced to remove his clothes and his legs were beaten; he was pushed face down on a bench and had his back beaten with a pole; his head was submerged repeatedly in cold water.

The police officers also reportedly forced the victim to handle an empty box, into which they put a hand grenade. The next day Puniyamoorthy was taken to the Matale magistrate court and accused of carrying explosives, with his fingerprints on the box used as evidence. Since this is a serious offence under the explosives ordinance Puniyamoorthy was sent into remand without bail. The police have filed two cases, B 362/08 and B 360/08 against him and the victim has been in the Rajaveediya Kandy remand prison since April 11, 2008.

*Additional comments*

This is not the first time the officers at Rattota Police station have been accused of misconduct. The

Asian Human Rights Commission is still awaiting an explanation into officers' inept investigation into one child rape allegation ( <http://www.humanrights.asia/ua/mainfile.php/2007/2680/> UAC-330-2007), in which they appeared to favour the accused, and into another ( <http://www.humanrights.asia/ua/mainfile.php/2009/3155> UAC-048-2009), in which the accused rapist was barely investigated and remains at large.

Sri Lankan citizens are protected from torture in sections 11, 12 and 13 of the Democratic Constitution of Sri Lanka, and under CAT, the UN convention against torture, the government is obliged to punish any perpetrator of such crimes with at least seven years imprisonment or a minimum penalty of Rs10,000. The convention was adopted by Sri Lanka in 1994 but remains under-implemented.

### **272. Upul Palitha Mawalag: Police torture a taxi driver for the drug crimes of his passengers**

The Asian Human Rights Commission (AHRC) has learned that police officers have arrested the driver of a three-wheel taxi in Wattala and tortured him severely to force a confession. During a routine check his passengers were found to be carrying drugs, but were reportedly released after they paid bribe money. The driver is currently in remand prison charged with the crime and has twice attempted suicide.

Upul Palitha Mawalag is a three-wheeler taxi driver who plies his trade near the Nayakakanda church, Wattala. The vehicle was stopped for a routine search on 7 May 2009 and, according to the victim, his two passengers were found to be carrying drugs. The three were taken to Bluemendhal Police station but the passengers were released, allegedly after paying a bribe.

According to the victim Mawalag has since been charged with transporting drugs. Though the officers first claimed that he carried drugs in the back of his vehicle, case B6425 filed in the Maligakanda Magistrate's court, states that the driver carried drugs in his pocket.

Mawalag reports having been stripped naked, tied to a chair and beaten severely with a stick by officers in a bid to force a confession.

He is currently in remand at Welikada prison where he has allegedly tried to commit suicide twice.

### **273. Chaminda Sampath Kumara Wickramapathirana: A man is randomly detained and extensively tortured at Bandaragama Police station**

The Asian Human Rights Commission (AHRC) has received information that a man was kept in illegal custody for seven days and tortured extensively and severely by the Bandaragama police to make him confess to a theft that he did not commit. He was badly beaten, hung up and kicked, and had chili juice squeezed into his eyes and nostrils a number of times. The officers have since charged him for possessing two pawn tickets that don't belong to him, yet have not been investigated for torture.

*(According to the testimony of the victim)*

On 20 May at about 11am Chaminda Sampath Kumara Wickramapathirana was returning home from the grocery store when he noticed a police jeep with about five men inside it, one of whom—Sub-Inspector (SI) Salwathura—was in uniform. As he passed the jeep a constable Kithsiri asked about the contents of his bag. He was told that it was poultry meat. Two other officers, Manoj and Salwathura, asked Chaminda the same question but when he replied they told him that he was the man they were looking for. Taking him by the scruff of his neck they entered his home. Once inside the men searched his room and found a pawn receipt for some jewelry. On request, Chaminda gave them another pawn slip that he had, explaining that they had been given to him for safe-keeping by a neighbour. The neighbour K. Udayanga Kumara had asked Chaminda to hold them because the gold jewelry that had been pawned belonged to his girlfriend and the pair did not wish their parents to know about it. Chaminda was taken to Bandaragama Police station for questioning; his mother was told sarcastically that 'he had not done any wrong but had surely helped his friends'.

At the Police station he was told that he was lying and a constable Manoj took him to the police barracks behind the Police station, where there were more officers and rows of beds. The officers crowded around him and Chaminda was made to strip, kneel down and hold his hands up straight. Then one of the officers put about 10 kochchi chilies (which are particularly potent) into his mouth and he was forced to eat them. He was then told to sit on the floor and his hands were tied behind him with a strip of cloth, his ankles were bound and his head forced back by constable Manoj, who had sat behind him with head between his knees. Kochchi juice was squeezed into Chaminda's upturned eyes and nostrils.

The torture continued. Manoj demanded that Chaminda lie on his back on the floor. An officer held his head down hard, while another stamped a booted foot on his chest and another stood on his knees. Chaminda remembers that the latter was not wearing shoes. Manoj again squeezed kochchi juice into Chaminda's eyes and nose, demanding to know if Chaminda had any more receipts.

Chaminda said that he had given up all the receipts he had with him.

Whenever Chaminda screamed, he says, he was slapped hard. SI Salwathura threatened that if he did not tell the truth he would be framed for the possession of fire arms, an offence that does not allow bail. Sergeant Manoj hit him around the head with a rubber water hose bent into two. Chaminda kept repeating that he did not know what else to tell them. The officers finally told him to dress and took him to a cell.

At about 6pm Chaminda's brother came to see him, and the victim was able to tell him about the torture. The next morning at about 10am Chaminda recognised another acquaintance of Udayanga Kumara called Danushka Nuwan, in the next cell. Shortly after that the two men plus another, a man called Anil from Makalanda, were taken in a police jeep to several pawn shops in the Piliyandala area. They were with five police officers, among them SI Salwathura and Sergeant Manoj. The officers showed Chaminda's, Danushka's and Anil's National Identity Cards (NIC) to the pawn shop



owners and asked if there were any goods pawned under such identities. For the latter two they were successful, but for Chaminda they found nothing. Back at the Police station Chaminda was again put into the cell.

On 24 May at about 10.15am Manoj again took Chaminda to the police, informing him that he would make him 'vomit the truth'. He boasted that he had done so before to men bigger than him. According to Chaminda, SI Salwathura joined the threats.

Inside the barracks Chaminda was made to strip and sit on the floor with his knees bent and his hands around his knees so that he could be hung upside down with a thick pole (a pastle used locally to grind grain) raised and balanced on two iron boxes. This method of torture is the 'dharma chakra' in police jargon—the 'Wheel of Law'. Manoj swung Chaminda around the pole shouting at him to tell the truth, then proceeded to grind chilies with a broom handle while voicing threats. The juice was again squeezed into Chaminda's eyes and nose, and when this failed to get a confession it was repeated. Fresh kochchi chillies were ground at least five times as far as Chaminda remembers, and whenever he screamed in pain he was slapped in the face and hit with the bent, platted rubber water hose. Manoj would also hit the soles of his feet with the handle of the broom and another officer kicked his neck. He started struggling for breath and Manoj shouted that he was going to die. Chaminda was later untied but tormented further by being given rations of water that were too small to effectively clean out his eyes. He says that he was almost blind at this point and could only make out shadows. Then he was given his clothes and told to return to his cell, and told the officers he couldn't see the way; he fell over and the police guided him back. His relatives were denied access to him later that day.

Chaminda later got to know that his brother-in-law had come to the Police station and managed to witness part of the abuse. When he asked officer Kithsiri to intervene, the policeman swore and chased him away. The victim also got to know that the gold jewelry which he was being accused of stealing had been delivered to the Police station by a person named Chamil.

Chaminda was kept in the cell until the 27 May, when SI Salwathura told him to sign a small piece of paper, and he was taken to court. No statement was taken. He was charged for the possession of two pawn receipts not belonging to him and given bail. His next appearance in court is set for 8 September 2009.

*Additional comments:*

Due to the extent of the injuries sustained during the torture sessions Chaminda admitted himself to Panadura hospital on 27 May. He told the doctors about the torture and was treated for two days. Though he says the hospital police visited him to take down a statement, when they discovered who the perpetrators were they refused to continue because it was they said that it was a case against the police. On 29 May a Judicial Medical Officer examined Chaminda. Chaminda says that he is still receiving treatment and that he still finds it difficult to walk. There is

also substantial psychological trauma.

In a letter dated 5 June 2009 Chaminda informed the chairman of the National Human Rights Commission, the chairman of the National Police Commission, the Inspector General of Police, and the Senior Superintendent of the police in Panadura about the incident in detail.

**274. Rankoth Pedige Wikrama Nimalsiri: The Nikaweratiya Police use severe torture to extract a confession from an innocent man, then offer him a cup of tea; hospital staff prescribe paracetamol**

The Asian Human Rights Commission (AHRC) has received information that a father of three was arbitrarily picked up and tortured by police, first in a wood then at a Police station, to force a confession of theft. They did not inform the family of his arrest and denied that he was being held at the station. After four days they pronounced him innocent, after which police and hospital staff have delayed and mishandled his treatment in a strategic manner. The case clearly shows the difficulties torture victims face when trying to get medical treatment and redress.

According to information received by Janasansadaya, a local NGO, Mr. Rankoth Pedige Wikrama Nimalsiri was arrested on his way to work on 14 July 2009. Sub-Inspector (SI) Ashoka and another officer of the Nikaweratiya police accused him of buying stolen property, and demanded a confession.

According to our reports, the two policemen cuffed Wikrama's hands behind him, beat him and threw him into the police jeep, where they dipped cloth bundles filled with ground kohchi chilli into water and squeezed the chilli juice into his eyes, nose and ears, burning and blinding him. Afterwards he was taken from the van into a forest and strung up by his thumbs to a tree branch. He was beaten by the men for much of the day, until early evening. According to Wikrama, he could hear someone else being tortured nearby in the same manner.

At around 7:30pm he was taken to a building behind the Nikaweratiya Police station, where the abuse continued until the next evening by seven officers: these included Sub-Inspectors Ashoka, Jayantha and Jayathilake. One of Wikrama's shoulders dislocated and the police took him briefly to Nikaweratiya Hospital where it was reset by a doctor, before he was brought back to the station. Meanwhile Wikrama's family had been searching for him and had made complaints to the Putlam, Wanathavilluwa and the Nikaweratiya Police stations, where officers denied that Wikrama having him in their custody. When Chandrika, his daughter, traced him there and met with the Officer-in-Charge (OIC) at Nikaweratiya, the OIC claimed that he was unable to keep track of who was being kept where, but instructed an officer to take them to the victim. Chandrika found her father in a critical condition in a building behind the main station office. She reports that he was in severe pain, his body swollen and bruised, and that he was unable to move one arm. He was limping badly and his thumbs were particularly injured. She saw three other men in a similar condition.

At this point the OIC admitted that the police had been mistaken about Wikrama's guilt; but claimed that they: 'had to assault him to find out the truth. There is no other way. But your father denied it continuously and we now know that he is not connected with this crime'. The officer assured the family that the injured man wouldn't be produced in court, said that he couldn't yet be released. He claimed that a statement was needed and that he couldn't make such decisions himself, since he hadn't been involved during the man's arrest and torture.

He eventually agreed that Wikrama could be released on the following day. Reportedly Officer Ashoka, the main perpetrator of the torture, then advised that Wikrama be taken for Ayurvedic homeopathic treatment and offered the victim a cup of tea. An Ayurvedic physician examined Wikrama, diagnosing him with severe nerve damage and predicting lengthy treatment. The next day (19 July) Wikrama fell very ill but the police still denied the need to arrange medical treatment. On 20 July 2009 Wikrama's family admitted him to Putlam Hospital, telling doctors about his torture. X-rays were taken but he was given only paracetamol until 23 July. The hospital police did not visit the victim as is customary, but sent word that he should visit them, though he found it difficult to walk. After this got covered by a local TV station, Sirasa, the Hospital Police decided to take a statement and Wikrama was transferred to the General Hospital of Colombo on 25 July, where he is now being treated in a neurology ward.

*Additional information:*

In 1994 Sri Lanka acceded the Convention Against Torture (CAT) and torture is also banned under Sri Lankan law, yet here again we see how entrenched and how common the use of torture is among police in Sri Lanka. The torture took place in the knowledge of at least seven others, it was brutal and creative. Details, such as its location in a forest and the use of chilli juice, make it clear that the role of police officers in Nikaweratiya has degenerated from that of law enforcer to basic thug. That no checks and balances are in place from superiors – who were openly reluctant to get involved – and that medical staff and police appear to protect those who commit torture, lays out just how large a problem it is in cities across the country. As does the comment from the Nikaweratiya OIC: 'We had to assault him to find out the truth. There is no other way.'

**275. Tammage Sampath Perera: An injured man is beaten by police, illegally detained and denied medical treatment**

The Asian Human Rights Commission (AHRC) has learned that an injured man was severely and randomly beaten by a police officer at Negombo Police station and then denied medical treatment for more than 24 hours, causing possible permanent nerve damage. He now faces fabricated charges for a robbery. No legal or disciplinary action has been taken against the officers involved, one of whom is respondent in a fundamental rights charge before the Supreme Court for the alleged torture of Sugath Fernando, who was assassinated last year.

Tammage Sampath Perera, 28, was leaving church on 29 July, 2009 when he was stopped and badly beaten with an iron bar by a group of churchgoers. They accused him of stealing Rs 38 (US \$0.33)

from the church and called the police. While waiting for the police the residents decided that another young man, 15, was the culprit instead, but when the police arrived both were taken to Negombo Police station.

At the station Sampath's bleeding leg was roughly bandaged, and he was left sitting on a bench with a number of the others. After about an hour we are told that an officer (who Sampath later learned was Headquarters Inspector Somasiri Liyanage ) entered the room and started to kick him and stamp on his wounded leg. The inspector allegedly told him to remove his trousers, then put a pistol in his mouth and ordered him to confess to the crime. Some of the witnesses present protested and told him that the younger boy, also in the room, had taken the money. Two officers were heard to shout at them and threaten them with the same treatment. It should be noted that Inspector Liyanage is currently a respondent in a fundamental rights petition relating to torture (please see more below).

Though no complaint had been filed against Sampath and no evidence produced, police charged him with the robbery and detained him illegally in a police cell without medical treatment. His family found out about his arrest (they were not officially told) and arrived later that evening, asking that he be allowed to go to hospital. When Sampath was admitted to Negombo hospital late the next morning while under custody, a doctor told officers that permanent nerve damage was likely, due to the delay. Sampath was operated on and stayed in hospital until 7 August, where he spent much of the time cuffed to his hospital bed, before being given bail. On 28 October he appeared in the Negombo Magistrate's Court (case number B/1373/2009) charged with robbery.

#### *Additional information*

As you can read in our past appeal <http://www.humanrights.asia/ua/mainfile.php/2008/3013/UAU-057-2008>, Somasiri Liyanage is a respondent in a fundamental rights case before the Supreme Court, filed by Sugath Fernando, for alleged torture. Fernando's widow is a witness in the case and suspects these respondents for her husband's murder, yet investigations into it have stalled. The case and analysis of it can be read in depth in our human rights periodical, <http://www.article2.org/pdf/v08n01.pdf> Article 2, vol.8 no.1 (PDF).

No legal, administrative or disciplinary action has yet been taken against the officers involved in Sampath's arrest and torture even though numerous laws and procedural codes were broken, and one of the perpetrators has this alleged history of abuse. As you can read in our <http://notorture.ahrchk.net/profile/srilanka/> summary of Sri Lanka's legal position on torture, the [http://hrli.alrc.net/mainfile.php/srilanka\\_constitution/](http://hrli.alrc.net/mainfile.php/srilanka_constitution/) Constitution recognises freedom against torture as a fundamental right (Article 126) and Sri Lanka has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1993, though neither are used much considering the high rate of torture being reported from Sri Lankan places of detainment. Most police officers appear to enjoy full impunity.

The Asian Human Rights Commission does not consider a job transfer – a common response to torture allegations – an effective deterrent to the crime. Please find out more on our online "<http://notorture.ahrchk.net/index.php>" campaign to fully criminalize torture, in Sri Lanka and throughout Asia, according to international legal standards.

Sampath has written complaints against the Negombo police, naming HQI Somasiri Liyanage, to the Inspector General of Police, the Deputy Inspector General of Police, the Special Investigations Unit, the Special Superintendent of Police in Negombo, the National Police Commission and the National Human Rights Commission. An enquiry has been started by the local SSP, and his report is pending.

### **276. Suresh Kumar Dias: TID officers detain a man for more than two years without a trial and on clearly fabricated charges**

The Asian Human Rights Commission (AHRC) has learned that a man has been illegally imprisoned for over two and a half years after his illegal arrest, beating and mock execution by police officers. Although no legitimate evidence has been produced and he was cleared of the charge after two years, a second terrorism charge has been fabricated against him by police officers. He has been given no chance to arrange legal representation or to go to trial and is one of hundreds currently languishing in jails and remand prisons across the country due to the misuse of draconian Anti Terrorism laws. The AHRC firmly believes that these laws need to be reviewed and repealed for the rule of law to be restored in Sri Lanka.

According to Suresh Kumar Dias, he was in his tailoring shop on 7 March 2007 when about seven men wearing civilian clothing arrived and started to question him about a business contact, who had been accused of being linked to the LTTE. They tied his hands and feet together and searched his shop, beating him with a stick for half an hour and fracturing his left upper arm. Business documents were taken and Suresh was driven to various spots around town, during which he was beaten again and made to undergo a mock execution. It was only later that he found out that they were police officers. The men eventually took him to Negombo hospital, and then to the Terrorism Investigation Division (TID) in Colombo the next day, where he was detained without charge for over a month. On 12 April 2007 he was transferred to Boosa Detention Centre where he was illegally detained again until 26 June.

He was then transferred to Colombo's New Magazine Prison. He was only able to find out that a B report (B 9681/2007) had been filed, accusing him of unspecified terrorism charges. Dias was cleared from those charges on February 13, 2009 after almost two years in remand prison, on the instructions of the Attorney General (AG). But he was not released; during his time in prison another case (B 519/2006) had been filed against him at the Pugoda Magistrate's Court, accusing

him of bombing a Dialogue Telecom PLS transmission tower in Radhawan. He has been refused bail and the case is pending.

The AG has not made any representation in this case. No evidence of any sort has been produced against him and the case has not gone to trial, which means that he has been unable to prepare any kind of defense. However Suresh is a Tamil, albeit one who can't speak or write Tamil; his family migrated to Colombo a long time ago. Because of his birth name he says he faced continual problems at traffic checkpoints—officers would be suspicious when he couldn't answer them in Tamil or give them any information relating to Tamil affairs—so he decided to legally adopt a Sinhala name. This may well have been the trigger for his arrest. We urge that he be released immediately from illegal detention and swiftly compensated for the gross violations of his constitutional rights. Representation has been made to the Attorney General on this matter.

**277. Christopher Pakiam: A criminal investigation is needed into the paralysis of a man in custody**

The Asian Human Rights Commission (AHRC) has been informed that a man has become critically ill and partially paralysed after time in the custody of Gampola Kuruduwatte police. He is reportedly tied to his bed and under constant guard in hospital, but was in a healthy condition before his arrest. His relatives have been unable to get a credible explanation for his paralysis and are extremely concerned for his future safety.

According to the information we have received, Christopher Pakiam, a three-wheeler driver, was admitted to the Bogambara Kandy Remand Prison infirmary on 16 September while waiting for the court hearing of his case (B 2985/2009). He was admitted to Kandy Hospital, ward no. 28, two days later. Those concerned about his welfare, including his family, have not been able to speak with him privately to find out how his condition deteriorated; he was unconscious for long periods of time and is being kept tied to his bed under constant guard.

Though he was well when he was arrested by the Gampola Kuruduwatte police, he is now reportedly paralysed below the waist, and has been transferred to Digana Hospital. His family are concerned that his condition is due to torture or maltreatment, but police and prison wardens have not offered them an explanation. Bail has also been refused by the Kandy High Court.

Under domestic law, if a person is arrested in good health and released with a severe condition, the responsibility for explaining it falls to those in charge of his or her detention. The Office in Charge of the Gampola Kuruduwatte Police station and the Kandy prison authorities must be held accountable. In the absence of a credible explanation, it is their duty to launch an investigation and to keep the family of the victim informed of their findings, along with the necessary legal steps. Should this be a case of torture, as the family of Mr. Pakiam fears, any delay in this investigation damages the physical evidence. The patient's statement must immediately be taken.

It is important for Mr. Pakiam to be granted bail so that his family can have control over his medical

treatment, and the hospital authorities must in the meantime, arrange for the best available treatment. As a witness in a criminal investigation, he and his family must be provided with protection.

Pakiam was a three-wheeler driver and was arrested after he drove three customers from Dickoya to Gampola Dolosbage who got involved in a fight, in which a man died.

### **278. Mudugamuwa Manage Piyal: Police strip and sexually torture man in custody to force confession**

The Asian Human Rights Commission (AHRC) has received information about the arrest and torture of a young man by police in Matara to force a confession of robbery. The victim was held illegally for over 48 hours and allegedly stripped, beaten repeatedly and sexually molested. No statement was taken and due process appears to have been utterly discarded. When released on bail one police officer then secretly intimidated the victim into giving him his bicycle.

According to information from 20-year-old labourer, Mudugamuwa Manage Piyal, he was arrested on 2 August at 2pm by police and taken first to Deniyaya and then Morawaka Police station. There had been an attempt by police to arrest Piyal's brother and one of his uncles earlier in the day regarding a theft at a shop in Porupitiya, but they had escaped.

From this point the victim alleges that a series of beatings took place over several days in a room at Morawaka station. The first incident involved officers kicking the victim until he screamed, and was heard by his mother who waited nearby. Piyal was later handcuffed to a bed and then whipped with his own belt at around 7:30pm by a drunk police officer. During an interrogation set up, the victim claims that he was stripped and beaten again by an officer, who also gripped and twisted his penis. The beatings continued over the 48 hours until he was released without bail on 4 August; he was told to report to the station every Sunday.

Finally Piyal was confronted by officer Sunil Shantha as he left the station, who took his bicycle. The policeman suggested that Piyal's brother had stolen a mountain bike and that he should give up his own to avoid the case being pursued. He was told not to mention it to anyone.

Piyal has been treated at Haldola Government Ayurvedic Hospital for the beating he received in custody. However to date no case has been filed in response to his allegations of torture, despite a written complaint being sent to the Inspector General of Police, the Superintendent of Police Matara, the National Police Commission, Attorney General and the Sri Lanka Human Rights Commission. He continues to visit the Police station each week, as instructed by the officers who tortured him.

### **279. Tennakoon Mudiyansele Wijeratne: Mahiyangane police arbitrarily arrest an indigenous man after allowing him to be beaten by a priest**

The Asian Human Rights Commission (AHRC) has learned that Mahiyangane police officers witnessed the severe beating of a man by a priest and refused to intervene. The act constitutes torture under international law. The victim was then arrested with scant evidence of his crime and his allegations of torture were not addressed by the local magistrate. Rather than arrest the perpetrator, officers are entertaining his complaint against the victim and the investigation into the victim's complaint has been dropped. The fact that simple police procedures are being so soundly violated suggests a breach in the chain of command in Mahiyangane which must be immediately addressed.

Tennakoon Mudiyansele Wijeratne, 43, belongs to the Veddha aboriginal community, and this summer he set up a small ice cream stall for a festival at the Mahiyangane Saman Devala, which is part of Mahiyangane Temple. While bathing in the adjacent Mahaveli River on 28 August at about mid-day, Wijeratne reports that he found a piece of wire buried in the sand and thinking it useful he took it with him.

However shortly afterwards a grama (village) officer physically stopped him in the crowd, pulled him by his shirt collar and started to question him about the wire. He was taken to a police post near the temple where the officer told two other officers that he had caught 'the wire thief'. One of the police officers fetched the head priest, who allegedly ordered Wijeratne to sit on the floor, took the wire from him and beat him with it for around five minutes. A crowd gathered.

The priest reportedly shouted at Wijeratne throughout the beating, accusing him of regularly cutting wire from the temple premises, and the younger priest then reportedly kicked the victim to the ground. Though crowd members had asked the priests to stop, the two officers stood back and watched the beating, while observing that this was the consequence of stealing wire. Wijeratne was taken to the Mahiyangane Police station by three-wheeler taxi, where he was kept in a cell. He told the Officer in Charge (OIC) that he had been assaulted and showed the marks on his body but his complaint was not noted.

That night Wijeratne reports that he was not given anything to eat. The next morning he was given a small serving of rice and coconut sambol, and his family was called to inform them of his detention. On 29 August at about noon he was produced at the residence of a local magistrate, where his lawyer brought up his abuse by the priest. We are told that magistrate did not take note of the abuse before he granted Wijeratne bail. Since it was a Saturday and a holiday the bail money could not be furnished and Wijeratne was remanded in Badulla prison. In the prison Wijeratne told the prison guards that police had refused to take note of his abuse and he was given some medicated cream to rub on his contusions.

On 31 August the bail money was furnished, Wijeratne was produced in Mahiyangane Magistrates Court (case BR 853/09) and released, after being told to return to court on 8 September, and then later on 3 November. On 10 September we are told that he found it difficult to urinate and he



passed blood, after which an Ayurvedic doctor advised him to find treatment in hospital. On 12 September, after filing a complaint about his assault at Mahiyangane Police station (CIB 1 46/120) he checked himself into Mahiyangane Hospital. He informed the doctors of the abuse by the priest; X-rays showed internal contusions but no broken bones.

He was discharged on 14 September. On 15 September Wijeratne was called to the Mahiyangane Police station to make a statement about his complaint, and he took two witnesses with him. A police officer recorded their evidence and asked the two to leave, at which point Wijeratne was told that he would have to personally identify the scene of the crime and was taken back to taken to the police post at the temple. He was made to wait there for three hours, and when the officers returned they simply told him that the head priest had denied the charges. He was asked to go home; no statement was recorded from him nor any other records made.

The Mahiyangane police appear to have abandoned ordinary criminal procedure, and have instead tailored it to work against the victim; in this case an underprivileged minority member. The victim was denied his right to protection – which constitutes torture under international conventions ratified by Sri Lanka – and officers endorsed illegal vigilante justice instead. He was traumatised by the incident and his extended time in detention lost him vital income from the festival, where he had rented a stall. Even the lack of food given to the victim in police custody goes against police departmental orders (A 20. 7a).

In Sri Lanka the officer on reserve duty is responsible for ensuring that those under arrest are properly fed, and must record each meal in the Information Book. The fact that all such simple procedures are being easily violated suggests a breach in the chain of command in Mahiyangane, and this must be immediately addressed with disciplinary action. The high priest's actions must be fully investigated and dealt with according to the law and the magistrate and the medical staff involved must also be reminded of their duty to act when cases of torture are presented before them, to prevent the entrenched impunity that still plagues the Sri Lankan system of justice.

### **280. Wannu Athapaththu Mudiyanseelage Nilantha Saman Kumara: Police, doctors and magistrates are complicit in a man's torture**

The Asian Human Rights Commission (AHRC) brings you case details of a farmer who, while on his way to pick up his child from school, was arbitrarily arrested, faced with fabricated charges and extensively tortured for two days by Galgamuwa police officers, some of whom were allegedly drunk. He was suspended by his arms for so long he has nerve damage, and had a bottle of petrol poured into his intestine via his anus. The incident exposes a collapsed system, in which torture goes unpunished because of deliberate negligence by its professionals. In this case a magistrate, two doctors and a variety of police officers and prison wardens are responsible, most of whom must now face legal action. The victim's torture allegations have not been addressed, and he stands accused of stealing a water pump. His next hearing is 11 December 2009.

*(According to the victim)*

Wanni Athapaththu Mudiyansele Nilantha Saman Kumara, 31, is a farmer with two children. He was once in the army and he and his wife are reportedly witnesses in a case in Galgamuwa.

According to the information that we have received, Nilantha was taking his eight-year old child to school on his bicycle on 26 October 2009 at around 7am, when he stopped to join a crowd outside a shop by the Nahettigkulama jam tree. He was told that the shop had been robbed the previous night, and on his return he paused again as an onlooker. Later that day fellow villagers asked him to join them at the shop, where police and the Grama Officer (village chief) asked a 50-strong crowd to help search the jungle for the stolen goods. Nilantha helped, before going home for lunch and back into the fields.

The illegal arrest: While on his way to pick up his child from school, Nilantha was stopped at the shop by a Constable Wijeratne and a few other officers, who asked him to cycle with them to Galgamuwa Police station to make a statement. But once there, he was illegally jailed. It was approximately 1.30pm, and no charges were read to him, no evidence cited and no official arrest made. This is contrary to the right to be free from arbitrary arrest, as enshrined in the Sri Lankan Constitution (more legal analysis can be found in Additional Information, below). Three other officers were reportedly with Wijeratne.

After two hours we are told that the reserve officer took Nilantha into a room behind the Crimes Division; it seemed to be a private wing of the police residential barracks, containing five steel beds and several big wooden trunks. Here, Inspector (IP) Ataputtu, Police Constable Wijeratne and two other police constables, all dressed in civil clothing, started to illegally interrogate Nilantha without regard for police procedures. They told him that he was there in relation to the theft in the shop and the theft of a water pump, and Nilantha denied both.

The first day of torture: Nilantha was then reportedly tortured under the direction of IP Ataputtu in a manner known as a Palestinian Hanging. Torture is against the law in Sri Lanka. Nilantha's shirt was removed and his lower arms were wrapped with cloth, his hands were forced behind his back and tied with a cloth rope which was attached to a nylon rope that hung from a ceiling beam; its other end was secured to a steel bed. Two police officers held the bed in place. Nilantha was then told to stand on one of the boxes, the rope was pulled tight and the wooden box was kicked from under his feet leaving him suspended from his hands in the air.

IP Ataputtu told Nilantha that he had better confess, and left the room, telling the officers to keep him hanging until his return; however the man continued to deny the charges. He says he was taken down about two hours later and put back in the police cell. The hanging was repeated at around 9pm on the same day, directed by Wijeratne and conducted by Ataputtu and the same few constables; Nilantha believes that they were drunk. They verbally abused him and left them hanging

for around half an hour, then took him down and physically exercised his arms up and down against his will, before beating and kicking him intermittently for around three hours. At midnight he was put back into the cell and given two buns to eat. Ataputtu then told him that although the police had received information clearing him of the shop theft, he would have to admit that he stole the water pump.

The second day of torture: On the morning of 27 October Nilantha was given another bun to eat and at midday, a packet of rice which had been brought for him by his family, though he was not allowed to see anyone. He was almost paralysed from the hangings, and he remembers that he had to eat his food from the packet on his cement bed without using his arms. Though he clearly needed medical treatment, none was offered.

At around 4pm, after the legal 24 hour time limit for detainment, Wijeratne took Nilantha to the same room with the same officers and hung him again for two hours, shouting at him to confess to stealing the water pump. During this time he says that another man called Ruwan Ranjith, from the same village, was brought to the room. Nilantha was taken down and into another room, where he could hear the other villager screaming and pleading, and shouting about some goods that had been buried. After some time Nilantha was taken back to his cell.

Around 9pm IP Ataputtu told Nilantha that if he gave back the stolen goods he would not have to go to court the next day (as he had been told at one point) and could go home instead. Nilantha denied stealing and recalls that Ataputtu grabbed him by the hair and dragged him into the same room, which held the same officers. He was beaten, stripped naked, and tied with his hands in front of him. Then he was subject to a torture procedure known locally as the Dharma Chakra, or the Wheel of Law. He was forced to squat down and wrap his hands over his knees, a metal pipe was put through the crooks of his knees and elbows, and the bar was suspended and balanced on two tables. Then with his head hanging close to the floor, Nilantha was subjected to a bottle of petrol being poured into his anus. Water was also intermittently used to relax the muscles. He says that he was in extreme pain from the intense burning both inside and outside of his body. He began to scream for them not to kill him.

The denial of medical treatment: Once the bottle was empty, Nilantha was taken outside the room and made to shower, then dressed and locked in the cell again. Ruwan Ranjith was put into the same cell and was told by Ataputtu to simply apply two bottles of sidalepa (a medicinal balm) on Nilantha's wounds, despite the severity of his condition. At about midnight IP Ataputtu brought a rice packet and ordered Ruwan Ranjith to feed Nilantha. Ataputtu also gave Ruwan Ranjith what looked like leftovers from a police meal of Kottu (a kind of Indian food), despite departmental orders which hold duty officers responsible for making sure that detainees are properly fed.

In the morning of 28 October Ruwan Ranjith was ordered to bathe and dress Nilantha, who had lost the use of his arms. Both were taken to the criminal division, where a statement was allegedly

only taken from Ruwan Ranjith. Wijeratne and another officer took the two men to the Out-Patient Department (OPD) of Galgamuwa Hospital, where they were told to wait outside while the officers ensured that a female doctor, Dr. Roja, completed a Medico-Legal Examination Form (which details the medical health condition of the patient) in her office, without seeing the patients.

Nilantha and Ruwan Ranjith were then taken to the Magistrate's Court in Galgamuwa without being given the opportunity to contact the next of kin or arrange for legal representation. Nilantha heard the magistrate say that he was to be remanded till the 6 November, but he was denied his legal right to speak with the magistrate; he was neither addressed nor questioned. Nilantha was then taken to Wariyapola Prison where he told wardens about the torture and was able to sign a statement stating as such.

On 29 October he was taken to Wariyapola Hospital, where one officer told the doctor of the torture. Nilantha was still unable to use his arms. The doctor reportedly accused him of lying and refused to examine him, claiming that if his story were true his hands would have dislocated. Instead she prescribed some tablets, which were allegedly the only form of medical he received for the next ten days in prison.

The denial of legal remedy: On 6 November Nilantha was again produced at the Galgamuwa Magistrate's Court, where his father had managed to arrange a lawyer. However the lawyer had not been able to meet with him to find out about the torture, and it was not mentioned in court. Nilantha was released on bail, under suspicion of stealing the water pump. His next court date is 11 December 2009.

After his release Nilantha went home and tried to heal himself with medicated cream, but seeing no improvement, he decided to return to the hospital on 9 November with his father. Dr. Roja was still working in the Out Patient Department and though Nilantha reminded her of his previous visit, and what happened, she chose not to examine him again and told him to go to the Anuradhapura Teaching Hospital for treatment. The next day he did so, was examined, and was warded for six days. He was also examined properly by a Judicial Medical Officer, and was told to consult the Specialist Neurologist at Kurunegal Hospital, due to nerve damage. His left arm is paralysed and he is still in a state of shock.

On 17 November we are told that one of the alleged torturers, Constable Wijeratne, visited the victim's home to find out what steps he was planning to take. On 19 November Nilantha submitted a written complaint to the Human Rights Commission of Sri Lanka, the Inspector General of Police, National Police Commission and the Attorney General. However he remains scared of harassment or further harm from the perpetrators.

## **281. Joseph Fonifelius: Nawalapitiya police illegally arrest a man and fabricate evidence against him**

The Asian Human Rights Commission (AHRC) has been informed that police in Nawalapitiya have arbitrarily arrested a man, beaten him and created evidence to use in the framing of charges against him. He will appear before a magistrate on 25 November 2009.

According to the information we have received, on the 19 November 2009 Joseph Fonifelius, 44, visited a shop close to his home at around 9am to buy cigarettes for his father. He arrived to find police raiding the shop for illegal alcohol. Though there was no evidence to suggest his involvement, police quickly arrested him on charges of 'spying' while still outside of the shop. They reportedly threatened and slapped him and forced him into a jeep, along with the shop owner and his brother, Aloysius and Felix. Police officers continued to breach procedure and break the law at Nawalapitiya Police station, where Joseph was told to sign documents he had not read. He resisted, and says that he was threatened with a fake firearms charge, which is non-bailable. He informs us that his fingerprints were then affixed to a bottle of illicit liquor, after which he was detained in a police cell. He has still not been told of the charges against him, as required by the Sri Lankan constitution and police code. He was released on police bail at approximately 3pm and told to appear before the Nawalapitiya magistrate on the 25 November 2009.

By abandoning police procedure, officers have violated Joseph's right to be protected from unlawful arrest and detention, and to a fair trial, as guaranteed under article 13, paragraphs 1 to 6 of the Sri Lanka's [http://hrli.alrc.net/pdf/1978\\_Constitution\\_Without\\_Amendments.pdf](http://hrli.alrc.net/pdf/1978_Constitution_Without_Amendments.pdf) constitution (PDF) as well as article 9 of the International Covenant on Civil and Political Rights (ICCPR).

As often documented by the AHRC, police actions in Sri Lanka continue to show a disregard for legal procedure, which is in place to protect civilians and prevent officers from following personal agendas. Arbitrary arrests undermine civilian respect for the law and law enforcement agencies. The current brand of police conduct and investigation is commonly unprofessional, arbitrary and violent, and it leaves room for corruption and exploitation. In this case the victim is worried about his reputation and about further police harassment; he supports three children, a mother with cancer and an ill father.

It should also be noted that the Nawalpitya police have featured in a number of AHRC urgent appeals on torture and false charges, including

<http://www.humanrights.asia/ua/mainfile.php/2009/3137/> UAC-034-2009

<http://www.humanrights.asia/ua/mainfile.php/2008/2896/> UAC-130-2008

<http://www.humanrights.asia/ua/mainfile.php/2007/2588/> UA-284-2007, which suggests that the weakness is institutional, and that the appropriate checks and balances are not in place. Review and reform is urgently needed. The AHRC urges the National Police Commission to look into the operation of police at Nawalpitya Police station, and the government to appoint a team of Supreme

Court Judges to thoroughly inquire into the general breakdown of discipline within the police in the country.

## 2010

### **282. Warnakulasuriya Asanka Peiris: Police assault a three wheeler driver and force him to carry them for free**

The Asian Human Rights Commission (AHRC) has learned that police in Chilaw illegally arrested, tortured and falsely accused a three-wheeler driver of carrying drugs. After ejecting the passengers, beating the driver and searching the vehicle the officers then forced him to give them a free ride. The man was later hospitalised. After a large demonstration by three wheeler drivers the officer in charge of Chilaw Police station announced that the incident was a mistake and promised compensation and the transfer of the perpetrators. Neither action has taken place and a criminal investigation has not been opened despite various complaints having been filed.

Warnakulasuriya Asanka Peiris, 30, was transporting a couple in his three-wheeled taxi on 14 February 2010 at about 11.20am when another three-wheeler overtook and stopped him. Four men in civil clothing surrounded his vehicle and started to beat him around the head and chest. As his customers left the scene the assailants claimed to be police and told them not to use Asanka's services because he carries drugs. The men beat and threatened the victim while they illegally searched his vehicle.

They then told him to take them to Daduru Oya Tank, which is also against police procedure. When Asanka told them that he was too injured to drive they reportedly threatened to sue him under section 54 of the Anti Drugs Act. At Daduru Oya Tank they disembarked without paying. The victim went to find his brother and soon began to experience vomiting. He was taken to Chilaw Hospital and examined by a number of doctors, including a judicial medical officer; hospital police took his statement on 15 February. Although he was discharged on 16 February Asanka's symptoms returned again that evening and he spent another night in hospital. His assault by police amounts to torture under Act 22 of 1994.

The case prompted a large scale local protest on 15 February, when approximately three hundred three-wheeler drivers demonstrated in the centre of Chilaw Town. Though the officer in charge of Chilaw Police station told the demonstrators that the incident had been a mistake and assured them that the perpetrators would be transferred immediately and that Rs25000 would be paid to the victim in compensation, no such actions have been taken. Identification of only two officers has been possible, of a Mr. Harsha and a Mr. Kumara, with a third identified by his Chilaw station police number 83206; however no information has been released.

The actions of police violated the victim's right to safety, security, movement and livelihood, and involved various illegal actions – including the baseless arrest and torture. A complaint has since

been sent to the National Human Rights Commission and was followed with written complaints to the Inspector General of Police, the Deputy Inspector General of North Western Province, the Senior Superintendent of Police in Putalam and the Headquarters Inspector of Chilaw on 24 February. Despite this the victim has not been informed of any further action or the launch of an investigation. As seen in our past appeals this is one of many incidents of police impunity being reported from across Sri Lanka. Such violations will continue undiminished while the government lacks the political will to tackle the issue and continues to drag its feet on much needed, credible police reforms.

### **283. UPDATE: Teenage torture victim wins fundamental rights case**

The Asian Human Rights Commission (AHRC) is pleased to report that a young torture victim has won a fundamental rights case in Sri Lanka. He has been awarded compensation and the case has been duly handed to the Attorney General for action. Although the country has an anti-torture act such rulings remains rare.

#### *Updated information*

In 2008 we reported that an officer of the Deniyaya police tortured a 14-year-old boy under interrogation and forced his parents to pay a protection bribe.

<http://www.humanrights.asia/ua/mainfile.php/2008/2874> UAC-113-2008. The boy later tried to commit suicide.

An investigation by the Human Rights Commission of Sri Lanka concluded this year that the fundamental rights of the boy had been violated under article 11 of the Sri Lankan constitution, and the first respondent, Sub Inspector Wimalakeerthi was ordered to pay him Rs15,000 as compensation. This amount is relatively low considering the age of the victim and the AHRC urges that the sum be reconsidered and raised, but it also welcomes the conclusion and strongly supports the actions now being taken by the administration.

We look forward to the Attorney General filing an indictment against the officer in the High Court under the CAT Act of No. 22 of 1994, and trust that the Inspector General of Police, as the head of the department, will initiate the necessary disciplinary action in accordance with the establishment code.

It is still uncommon for victims of torture to file complaints against their police assailants in Sri Lanka. This is largely due to the delays and obstructions they face in the legal system, and the lack of protection they are given against police intimidation. Since the CAT Act came into force in 1994 fewer than 100 cases have been initiated; four have resulted in prosecutions. This win is a small step in the right direction.

However the AHRC notes that many torture victims, including those such as

<http://www.humanrights.asia/ua/mainfile.php/2005/1011/> Chamila Bandara and

<http://www.humanrights.asia/ua/mainfile.php/2008/2884/> Lalith Rajapakse who were in their

teens at the time, are still waiting for the system to function in a way that can will allow them just and timely verdicts.

#### **284. Gayan Thusitha Kumar: A man is tortured by police and held without bail for two years**

The Asian Human Rights Commission (AHRC) has learned that a man was arbitrarily arrested, tortured and held in remand for more than two years before he was finally granted bail. Dehiwela police held him illegally for one month and ten days before his transfer to a remand prison and he reports that officers there tortured him severely. The victim is still on trial and suffers from physical and mental trauma while raising four children as a single parent. The unmonitored and illegal detention of persons in Police station cells is a grave and widely tolerated crime across Sri Lanka and leaves many vulnerable to torture and abuse by police, with little chance of finding redress.

According to the information received, Gayan Thusitha Kumar, 30, was picked up by Dehiwela police officers on the 17 September 2007 and taken to the Police station. He was told by police that he needed to give a statement about a theft but was then illegally arrested and accused of stealing mobile phones.

On 20 September, his mother visited him and found him bleeding. Gayan told her that police officers had tortured him, by stringing him up to a tree beating him, and placing books on his head that they then struck (this is a common form of systematic assault that leaves little trace or bruising). Gayan was forced to confess to stealing mobile phones and to committing other robberies in the area.

Following a complaint from Gayan's mother the Human Rights Commission of Sri Lanka called the Police station directly. This did not secure his release or treatment according to procedure; instead, we are told that on that same night police obtained a detention order for arms possession. We are told that they had planted the victim's fingerprints on a small explosive, which is a common tactic to keep detainees in police custody.

Gayan was detained for one month and ten days at the Police station. No further intervention from the HRC appears to have taken place. On 30 October 2007 he was produced at the Mount-Levinia magistrate court and was sent to Welikada prison. He was there for more than two years waiting for his trial and was given bail on the 10 November 2009.

Gayan reports that the torture and his time in prison has resulted in a number of debilitating ailments and pains which makes it difficult for him to work. His wife left him while he was in remand and is raising his four children with the help of his mother. The case illustrates the damage being done on a personal level by the continued disintegration of Sri Lanka's administration of justice.

A rule of law cannot be credible while any police officer can illegally arrest and torture a civilian without consequence, and while court cases and pre-trial detentions can last for years.



**285. Balapu Waduge Lakshman Mendis: Ganemulla police illegally arrested, detained, tortured and filed fabricated charges against a civilian**

The Asian Human Rights Commission (AHRC) has received information that police officers attached to the Ganemulla Police station have illegally arrested, detained and tortured a civilian. Later the police filed fabricated charges against him. After the victim sought justice by filing a fundamental rights application he was further threaten.

Balapu Waduge Lakshman Mendis (39) of No: 315/H, Horagalle, Ganemulla is married and a father of two children. He works as a driver at the Abans Organisation Ltd, a private company in the area. On 25 April 2010 his wife and children attended a New Year celebration held in the 'Perera Pura', the village in which they live. Later Lakshman also went to the place where the celebration was held by a three-wheeler which he drives. The three-wheeler belongs to the member of the Local Governance Institution of the area. He parked his three-wheeler on the side of the road and went into the inside where the events were taking place.

A short while later he returned to the three-wheeler to go back to his home. He observed four people sitting inside in a casual manner, smoking cigarettes and laying on the seat with their legs up. He requested them to get down as he wanted to leave. Then one of the four youths told him that he was the son of a high ranking police officer. They asked him, do you know who you are speaking to? This is the son of the Officer-in-Charge (OIC).

Later they got down and left. Lakshman took the three-wheeler and moved on. He stopped near a house of his friends. When he was there three of the youths arrived on a motorcycle. They threatened Lakshman with foul language and when they finally left he thought that the matter was finished.

At around 7.30 in the evening, Lakshman returned to the same place to see a musical show organized for the New Year celebrations.

A short while later a police Jeep of the Ganemulla Police station arrived. The OIC who was in a black jacket and a black hat was in the Jeep and repeatedly demanded, who is Lakshman?

Then Lakshman went to the OIC, he thought that he had come to inquire into the earlier incident. Without warning the OIC hit him on the chest asking "Are you the man?" Lakshman fell to the ground and when he was trying to get up, the OIC assaulted him with a torch he was holding. He also kicked Lakshman who fell down again.

While Lakshman was being assaulted in this way the villagers started came to the place. Lakshman got up slowly and was able to enter the adjoining land, which belongs to Mr. Chaminda. However, the OIC was not satisfied and followed him, asking repeatedly "Where is the bugger?" Then he assaulted some other people who were there having soft drinks and who witnessed Lakshman being assaulting.

Then the son of the OIC who was in the Jeep came to the scene and pointed out Lakshman to his father (the OIC). The OIC caught Lakshman and used a helmet in his hand to strike him about the head. The police officers who had been sitting in the Jeep then came to the scene and surrounded Lakshman. They assaulted him by kicking him and punching him. They also stuck him with their firearms. As a result of the assault Lakshman fell to the ground again. They then dragged Lakshman to the jeep. As they did so the son of the OIC trampled and continued to assault him as he lay on the floor of the Jeep.

They brought Lakshman to the Ganemulla Police station and on his arrival Sub Inspector (SI) Jayasinghe punched him several times.

Lakshman suffered severe pain all over his body and the marks of injuries were clearly evident. The officers took him to the Base Hospital of Gampaha where the doctors admitted him for further treatment considering the severity of his condition.

Later Lakshman came to learn that the OIC of the Ganemulla Police filed a fabricated case against him on for obstructing the official duties of police officer; grievous hurt to a higher ranking police officer; violent behavior in public while drunk under case No. B/1278/2010, in the Magistrate court of Gampaha. Later he was discharged on 29 April 2010 and transferred to the prison hospital at the Remand Prison of Mahara. The doctors who examined him at the Base Hospital of Gampaha reported his medical condition but there was no evidence in their report that the victim was inebriated.

On 4 May 2010, Lakshman was produced before the Magistrate court of Gampaha. He was represented by an Attorney-at-Law in the court with the assistance of a civil rights organization where he was able to submit the affidavit of his wife which testified to veracity of the facts regarding the incident. Following the submissions the Magistrate enlarged him on bail. Furthermore, the four people who witnessed the assault gave affidavits confirming the incident.

Lakshman then made several complaints to the relevant state authorities on 8 may 2010 asking for prompt, independent, impartial and effective investigation into the violations of his rights and the crimes committed against him by the OIC and the other police officers attached to the Police station of Ganemulla. To-date, he has not received a single response to any of his complaints. He then took

the course of filing an application at the Supreme Court of Sri Lanka on the basis that his fundamental rights (FR) guaranteed by the Constitution of Sri Lanka have been violated by the police officers, including the OIC of the Police station of Ganemulla. The FR was filed on 2 June 2010 under case No. SCFR/ 341/2010.

Lakshman has revealed that after the filing this FR he and his family members have been intimidated and threatened by the police officers.

On 7 August, the application was supported in the Supreme Court and considering the credibility of the case the Supreme Court granted the leave to proceed with the application and ordered the relevant police officer, Inspector General of Police and the Attorney General to file their objections within two weeks. While the case was heard the counsel appearing for Lakshman drew the attention of the Judges to the threat made to the petitioner and the State Counsel was directed to advise the relevant police officers to refrain from threatening the witness. The next hearing in the Supreme Court has been fixed for 6 December 2010.

The judges failed to apprehend that much can happen in the way of intimidation and open threats, if not actual violence to the victim and members of his family in the time leading up to the next hearing.

#### **286. Henayaka Arachchilage Parackrama Karunaratne: A complainant was illegally arrested, detained and tortured by officers of the Ma Oya Police Post**

The Asian Human Rights Commission (AHRC) has received information that a man was illegally arrested by the police officers attached to the Ma Oya Police Post in the district of Polonnaruwa when he went to make a complaint. He was severely tortured and denied medical treatment. He only received medical treatment at the General Hospital of Polonnaruwa when he was transferred to the Headquarters Police station. The man was remanded by a court after the police filed fabricated charges against him.

According to information we have received, Mr. Henayaka Arachchilage Parackrama Karunaratne (28) of No. 34, Badiwewa, Ma Oya, Jayanthipura, Polonnaruwa, is married and a labourer by profession. On 26 April 2010 at about 2 pm Parackrama went to the Police Post of Ma Oya, Jayanthipura, to make a complaint about the gambling den which is being run close to his house, the constable who was present said that he would send someone to raid the premises. Since no action appeared to have been taken, Parackrama returned to the police post at about 5 pm the same day.

When he entered the post he saw that there were about five constables and a sergeant on duty. When Parackrama told the sergeant who he knew as Senaratne about the gambling spot, the sergeant told him, "Do not tell me how to do my duty".

Then Parackrama, had told the sergeant that "I think you do not want to take any action, because, Sanjeewa who is running the spot is related to you." Hearing this, the sergeant got angry and slapped

Parackrama. A Police Constable (PC) Dassanayake also joined in the assault. At this point Parackrama realised that Sergeant Senaratne wanted to prevent Parackrama from making his complaint. After that Sergeant Senaratne had brought a wooden pole from inside the Police Post and started to assault Parackrama, about his head and back.

As a result Parackrama fell on ground and when this happened PC Dassanayake kicked him several times. Parackrama continuously pleaded with them to stop the assault. Then Sergeant Senaratne brought two sets of hand cuffs, and with one set cuffed Parackrama to a tree. The second set was used to cuff his other wrist to his ankle. When this was done the officers continued to assault Parackrama again and again. Parackrama's wife Umali Amarasuriya and Parackrama's father Karunaratne then came to the police post where they witnessed Parackrama writhing in pain. He showed them the swollen ankle and his back.

Then the sergeant asked Parackrama, whether he wanted to go home and he replied "You assaulted me without any reason. I am in pain. Either take me to a hospital or to the Headquarters Police station of Kaduruwela." At about 7.15pm in the night, Sergeant Senaratne took Parackrama in a Double Cab to Polonnaruwa General Hospital. First Sergeant Senaratne went to the room of the doctor keeping Parackrama inside the vehicle. He was only taken in after Senaratne spoke with the doctor. The doctor examined Parackrama and noted down something in a paper. Parackrama told the doctor that the police officers had assaulted him and that he was in real pain and needed some treatment. However, the doctor did not pay any attention.

Parackrama was brought out of the doctor's room and the sergeant went back inside to talk to the doctor. After this he took Parackrama out of the hospital.

Parackrama told the sergeant that he needed some treatment but the officer told him that "First we will go to Kaduruwela Headquarters Police station and after we will see about that." When speaking to a human rights activist Parackrama clearly stated that the doctor did not execute his duties by providing necessary treatment for him and advising the police officers to admit him for further treatment although he was in an emergency situation to have medical treatment as an indoor patient. Then sergeant brought Parackrama to Headquarters Police station of Kaduruwela where he was put into the police cell. Again Parackrama started screaming and asking for treatment as he was not able to bear the severe pain he was suffering as a result of the torture. He requested the Headquarters Inspector of Police (HQI) of the station also to provide treatment but it was not considered.

Then Sergeant Senaratne told Parackrama that he wanted to send him home but since his mother had made a complaint to the Superintendent of Police (SP), he had to change his mind. After some time Parackrama was brought to HQI of the station by the officers on duty. Then he was able to reveal what had happened to him. Then the HQI inspected the injuries and swellings on Parackrama's body and instructed Sergeant Senaratne to take Parackrama to Polonnaruwa General Hospital. He also detailed a PC and a home guard to be at Parackrama's bed side in the hospital. Parackrama was

brought to the hospital at about 8.10 pm and the doctors admitted him. He was treated in ward 10. He remained in the hospital until the 28 April.

On the 27 evening the Magistrate of Polonnaruwa came and inspected Parackrama's condition. Parackrama was able to explain all the things that happen to him including how he was tortured by the police officers. On the 28 April, the Judicial Medical Officer (JMO) also examined Parackrama. He explained to the JMO also the way in which that he was tortured. Then on the same day he was discharged and brought to the Polonnaruwa Remand Prison.

On 30 April he was produced before the Magistrate's Court of Polonnaruwa. Then considering the submission made on his behalf the Magistrate enlarged him on bail under the condition of personal bail of Rs.15,000/= . At the courts he learned that police officers had filed fabricated charges against him that he obstructed the official duty of the police officers after drinking, being a menace to his neighbours, misbehavior and embarrassing Police Officers, under Section 344 of Penal Code and Offences Committed under the Influence of Liquor (Special Provisions) Act No. 41 of 1979. He further learned that the number of the case which filed against him as B/442/2010. Parackrama categorically states that he was not intoxicated at the time he went to the police post and even the doctors did not examine him for intoxication at any time. Later, Parackrama's parents made complaints asking for an investigation into this case to the Superintendent of Police (SP) Polonnaruwa on 29 of April 2010.

It was only then that a statement was recorded by the SP. Further complaints were also made to the Sri Lanka Human Rights Commission (HRC) and it was recorded under the No. HRC/AP/221/2101/ (E). Then Parackrama was asked to come to the HRC regional office at Anuradhapura. However, as in the vast majority of cases reported to the HRC nothing has happened to deliver justice. Written complaints were also made to the Inspector General of Police (IGP), Assistant Superintendent of Police (ASP) of the area, Senior Superintendent of Police (SSP) Polonnaruwa, Officer in Charge (OIC) of Polonnaruwa Headquarters Police station and National Police Commission (NPC).

### **287. Undiya Ralalage Premaratne: A man is badly beaten by Saliyawewa police during an illegal arrest and is denied medical treatment**

The Asian Human Rights Commission (AHRC) has learned of the illegal arrest, detention and assault of a man by police from Saliyawewa Police station. The victim was badly beaten by police on his arrest, was transported between Police stations by bicycle, and was denied sufficient medical treatment. The charges against him appear to have few grounds, and his assault was not reported to hospital police or the judicial medical officer at the local hospital.

According to the information that we have received, on 11 May 2010 around 10:00am two officers from Saliyawewa Police station wearing civilian clothes arrived at Mr. Undiya Ralalage Premaratne's house located at 1073 Nelabamma, Saliyawewa Junction. The officers arrived on a bicycle, which the

victim recognized as belonging to another civilian resident in Neelabamma, called Pradeep. The officers asked Premaratne how many gold necklaces he owned, took the two that he had, and handcuffed him. After this an officer called Illangasinghe reportedly kicked him to the ground and kicked and beat him to the upper body and head for around ten minutes while the second policeman stood by.

Premaratne reports he was taken to Giriulla Police station between the two men on the bicycle. When they arrived at the station the victim alleges that he was put in a cell and cuffed by his ankle to a table, where he sat on the floor for two and half hours.

It is reported that around 2:30pm Mr. Premaratne was taken to Saliyawewa Police station, again by bicycle, and put in a cell. However he reports that his condition deteriorated due to the beating he had received. At around 10pm the police officers told him that they were taking him to Puttalam Hospital, but instead took him in a jeep to Police Post 9 on Anuradhapura Road, in Tutttalam, and then to a Government Dispensary on Post 17 in Aluthgama. There he was able to tell a doctor about his assault and show his injuries.

However after a short meeting with police, the doctor returned and performed a number of simple coordination tests (to walk in a line and to touch his nose) which led the victim to believe that he was being tested for drunkenness. The doctor then filled in a Medico Legal form, which the victim did not see before he was returned to the cell at the Saliyawewa station.

At around 2pm on 12 May we are told that Premaratne was taken before the magistrate in Puttalam and released on cash bail (Rs. 1,500) and surety bail (Rs. 50,000). He took himself to the Puttalam Government Hospital and was admitted for three days, to be treated for injuries relating to the assault. We are told that although Premaratne disclosed the assault to the doctors, they were reluctant to report the issue further. The hospital police were not summoned and he was not seen by a Judicial Medial Officer; however he reports that his signature was taken before he was discharged.

The victim alleges that fabricated charges have been taken against him. It is imperative that his assault and the flouting of procedure during his arrest be thoroughly investigated, along with the charges against him.

### **288. Ganegoda Sinhage Haritha Lakmal: A man was illegally arrested, detained, tortured and refused medical treatment by the Ahangama Police**

The Asian Human Rights Commission (AHRC) has received information that police officers attached to the Ahangama Police station have illegally arrested, detained and tortured a civilian. Later the police refused to provide necessary and urgent medical treatment. After the victim sought justice by filling a fundamental rights application at the Human Rights Commission, he and the other

witness were threatened. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information we have received, Mr. Ganegoda Sinhage Haritha Lakmal (30) of No. 590/2A, Middle Gate Upper Road, Addunkelle Watte in Ahangama, was illegally arrested, arbitrarily detained and seriously tortured by the police officers attached to the Police station of Ahangama on 26 May 2010. Lakmal is a fisherman by profession.

On the 26th of May, his grandmother A B Gunawathee came to him and complained that her second daughter (the younger sister of Lakmal's mother) had borrowed a sum of Rs. 30,000/= . When the grandmother required eye surgery she asked for Rs. 5,000/= out of the total amount to pay for it. However, the borrower refused to pay anything back. The grandmother had been ill and suffering from vision ailments for some time. The doctors advised her to undergo surgery to insert lenses into her eyes. As her younger daughter refused to pay her money she asked Lakmal to intervene and get her money back.

On the same day, at around 7.20 p.m., Lakmal went to the home of his mother's younger sister at Kanaththage Watte in Ahangama and requested her to hand over Rs. 5,000/= to her mother. She told Lakmal that there was no need for him to intervene and that it was a matter between her and her mother. There was an exchange of words and suddenly her husband Mr. Sirisena intervened and told Lakmal that he would assault him with acid unless he left the place. Sirisena left a little while later. Within a few minutes, at around 7.45 p.m., a police vehicle arrived. Lakmal observed that Sub Inspector (SI) Nelumdeniya and three officers in civilian clothes were also there.

One officer in civilian clothes was Police Constable (PC) Aruna Shantha. Lakmal can identify the other two officers if he sees them again. Two of the officers, including PC Aruna Shantha, approached Lakmal and without saying anything ceased his hands and arms. Then SI Nelumdeniya grabbed him by the hair, demanding to know if he was a thug in the area. He then kned Lakmal in the stomach forcefully around 3 to 4 times following which Lakmal fell to the floor in pain. He pleaded with the officers not to assault him any further but PC Aruna Shantha and the other officer started to kick his face, head, and body.

Then SI Nelumdeniya asked the other officers to pick him up and make him do some exercises, which he was not able to do. Lakmal's mother's sister observed this and then pleaded with the officers not to assault him any further. However, SI Nelumdeniya blamed **another** for the incident and said that they were doing their job in their own way. Then he ordered two officers to take Lakmal into the vehicle. They lifted him and brought him to the Ahangama Police station.

During the journey Lakmal continuously screamed in pain but SI Nelumdeniya simply told him to be silent. Furthermore, SI Nelumdeniya told Lakmal that the police are licensed thugs. They forcefully threw Lakmal into the police cell where he repeatedly asked for medical assistance. SI Nelumdeniya together with PC Aruna Shantha and one other officer came to see the Lakmal's condition following which the SI ordered the other officers to bathe him. Then they took the toilet bucket of the cell and poured four buckets of water over Lakmal's head.

Lakmal continued to cry out in pain and ask for medical treatment until 4 am when SI Nelumdeniya together with two other officers took him to the Gonagalla Government Hospital by a police cab. During this journey SI Nelumdeniya threatened Lakmal that he would be given more hard times if he revealed to the doctors that he had been tortured at the hand of the police. However, when the doctor asked him how he received the injuries Lakmal explained how he was tortured by the police. The doctor examined him and told the police officers that Lakmal should be admitted to the hospital due to the seriousness of the illness. Then the officers told the doctor that as Lakmal was a hardcore criminal they could not admit him for treatment.

The doctor treated Lakmal with an injection and a few tablets and asked him to stay in his room for observation. However, Lakmal was still in considerable pain and started screaming. After 30 minutes the doctor again told the officers that Lakmal's condition was serious and he needed to be admitted to the hospital and then transferred to the Teaching Hospital of Karapitiya for further treatment.

Once again the officers refused, saying that Lakmal was a hardcore criminal. The doctor told them that if they wanted to take Lakmal back to the Police station then they would have to sign a hospital document saying that they are taking the patient against the advice of the doctors. The officers did so and took Lakmal back to the Police station. After Lakmal was taken back to the Police station SI Nelumdeniya forced him to put his signature into a blank paper in the police book. Lakmal signed the paper due to fear.

Then, around 5.45 am on the same day, one of Lakmal's relatives, Mr. Indunil Nishantha, came to the Police station to visit him. The police officers told Nishantha to take Lakmal as soon as possible to Karapitiya Teaching Hospital and admit for the treatment. He told the officers that he was ready to sign any document in the station in order to get bail to take Lakmal out from the station to admit him to the hospital. The officers told him that there was no need to sign anything but to admit Lakmal to the hospital as soon as possible.

Nishantha took Lakmal to the hospital by a three wheeler. Just after he was admitted to the hospital, around 7-7.10am, the doctors subjected him for several examinations, including an abdominal scan. Then immediately he was taken to the surgical theater where he underwent an hour-long surgery.

Subsequently he was brought to ward number 5 and bed number 17 at around 1.30pm. When he regained consciousness the senior doctor who did the surgery came to observe Lakmal and told him that if there had been a delay of just one more hour he would have died as he was in such critical condition at the time of admission.

Lakmal learned that on 29 May, his grandmother and his wife have met Deputy Inspector General (DIG) of the Southern Province and complained to him about what had happened to Lakmal. The DIG gave them a special letter to be given the Officer-in-Charge (OIC) of the station and emphasised that the letter should be given only to the OIC and not to the lower ranking officers. On 30 May, they duly met OIC Widyaratne and handed over the letter.



Then he told these two women not to worry about anything as they are paying all the expenses for medical treatments. Further he provided a three wheeler for them to go to the home as well. On or around the 31 May the OIC came to the hospital to visit Lakmal and informed him that a big mistake had been made by the police officers. Then he went to talk to the two relatives who came to visit Lakmal and told them that his illness is due to an ailment he had been suffering for a long time. Lakmal was treated in the hospital for a period of 13 days and discharged on 8 June.

Then again he was admitted to the hospital for further treatment on 18 June. He was treated for two days again and discharged on 19 June. When he was discharge he was warned by the doctors he should not lift any heavy items for the period of one year. From then he had to go to the hospital for treatment once every two days for a further three weeks. Meanwhile on the 19th of June the OIC of the Ahangama Police station, Mr. Chandrakumara of the criminal branch of the station and officers Upul Shantha came to Lakmal's home and told him that a big mistake had been made by the officers of the Police station and that he should not take any action against them. Further they told that they could arrive at a reasonable mediation with him. For that he was asked to come to the Police station on 20 June.

However, Lakmal was not able to go the station on that day as he was not in a position to move. Then around 11am of 22 June officer Chandrakumara again came to Lakmal's home and informed him not to identify PC Aruna Shantha at the identification parade and promised to pay Rs. 200,000/=.

On 25 May, PC Aruna Shantha and officer Mr. Dahanayaka came to Lakmal's home with Mr. Sujee of Induranwila, a well known illegal drug dealer of the area, in a three wheeler belonging to him and informed Lakmal that this matter can be settled and police were going to pay compensation and asked him to not to proceed with any case.

Due to the continued harassment of the police Lakmal left his home on 26 June and went to stay at his aunt's house at Matara. Then on 27 June a telephone call came to his mobile which is 077 0792873 from 077 5521275. He answered the phone and found that it was from Sujee of Induranwila, the illegal drug dealer who asked where he was staying. Due to fear Lakmal revealed his whereabouts.

Then on 28 June police officer, Chandrakumara, PC Aruna Shantha and Sergeant Upul of Ahangama Police came in a three wheeler belonging to Sujee along with him. They showed the pay slip of PC Aruna Shantha and told that he is facing enormous economic difficulties and was a father of two children so not to proceed with a case. Further they told that they can pay Rs. 250,000/= to him which they said was a reasonable settlement for him. Due to the medical condition and enormous economical difficulties that he faced after the severe torture finally he agree to accept that but the officers never paid.

Meanwhile Lakmal's family members made an application to the Sri Lanka Human Rights Commission (HRC) on violation of human rights of Lakmal. The case was registered with the number HRC/MT/206/10/06. This case was taken up for inquiry on 8 September and the parties

were summoned to come to the commission. On the particular day Lakmal's brother Indunil Nishantha, SI Nelumdeniya, PC Aruna Shantha and a police officer called Mr. Kalum were also summonsed and appeared for the case.

At the inquiry the police officers showed their interest for an out of commission settlement. Then the inquiring officer asked the parties to have a 15 minutes discussion and called the case after that. At that time the officers told that as they would pay Rs. 150,000/= to Lakmal so the case can be settled. Due to the economic difficulties Lakmal agreed to that also. Then the inquiring officers told that officers have to pay that amount within 14 days but once again they have not paid anything.

Lakmal believes that the only reason the police kept making these offers was to prevent him from proceeding with the case. Presently Lakmal learned that the three wheeler driver Mr. Pradeep Bandula, who brought Lakmal from the police station of Ahangama to Karapitiya Teaching Hospital, has been threatened by police officers, including PC Aruna Shantha, that if he gives evidence against them they would not allow him to proceed with his job.

Further, the relative who guided Lakmal's family members to make an application to the HRC was also threatened by PC Aruna Shantha via telephone. He has warned to be careful in future. PC Aruna Shantha came to the younger sister of Lakmal's mother and forced her to give Rs. 100,000/= to the police so that they could give it to Lakmal. Then the PC told her that the police were in difficulties because of her. Further, he warned that while they are paying the money to Lakmal they would definitely send him to prison with a fabricated case. Then Lakmal made written complaint to DIG Southern Province, Senior Superintendent of Police (SSP) Galle, OIC Ahangama and the National Police Commission on this regard.

### **289. Anthoni Ayiya Devaraj: Two men are beaten and tortured with leeches by Matugama police; one faces fabricated charges**

The Asian Human Rights Commission (AHRC) has received information regarding the unlawful arrest and torture of a farmer by Mathugama police. The man was falsely accused of selling illicit liquor and was tortured during arrest, along with another man, in a vegetable pit filled with leeches. The police have reportedly fabricated charges against him and warned that, should he not plead guilty, the case against him would be fabricated further.

According to information received from the victim, Mr. Anthoni Ayiya Devaraj, 44, father of three, was working in his paddy field when he was approached by two policemen in plain clothes. On the pretext of asking him for directions, they beckoned him over, then handcuffed and arrested him. We are told that he was taken to Sirikadura Watta where the police arrested another man, Mr. Mannikkam Sandana, accusing him of selling arrack (a local liquor) illegally. The police mentioned that they were looking for three other suspects, but then took the two arrested men to Galkanda

Watta, to a rural area with a vegetable pit. On the way one policeman broke a branch from a Ginikuru tree.

Arriving at the pit, we are told that the policemen interrogated Mr. Devaraj and Mr. Sandana about a purported liquor business. Devaraj was assaulted with the tree branch by one policeman; he was struck across his hands and buttocks, and his face was then pushed into the leech-infested pit. We are told that by the end of the interrogation both victims had been badly beaten and were covered in leeches; their hands were still cuffed behind their backs. The men were then taken to Matugama Police station.

At the station we are told that Devaraj was violently slapped across his ear, and told that charges may be fabricated against them for the possession of five barrels of arrack. No food was provided for them that afternoon.

After his wife was able to visit with one of his sons, Devaraj was visited by a friend who worked in the police. The police officers in charge of the case allegedly offered to reduce the fabricated charges from five barrels to two bottles. That night they released Mannikam Sandana without charge.

On 8 June Devaraj was told that to avoid further trouble and more severe charges he should plead guilty in the magistrate's court. After this a female officer took his signature and finger prints on documents that he was not allowed to read, and he was released on bail.

Devaraj does not know the names of the officers who assaulted him, but is confident that he can identify them. On 9 June he made a written complaint to the Human Rights Commission of Sri Lanka, and to the Inspector General of Police (IGP) and the Senior Superintendent of Police (SSP) of Kalutara. He was called before the court on 10 June and pleaded innocent, after which he was released on surety bail (Rs 100,000). He is waiting for his allegations of torture to be addressed, and has received no assurance so far that they will be.

#### **290. Jayasuriyage Samira Desapriya: A man severely tortured by the Urubokka police**

The Asian Human Rights Commission (AHRC) has received information that a man was illegally arrested, arbitrarily detained and severely tortured by officers of the Urubokka Police station. He was later released without any charge but there are no official records of his arrest and detention. He was later admitted to the Teaching Hospital of Karapitiya for treatment due to his severe condition. Presently he is in fear of his life to the intimidation of the police officers who arrested him.

According to the information we received, Mr. Jayasuriyage Samira Desapriya (24) of No.697, Galbokka, Beralapanathara is a bachelor and a motor mechanic by occupation.

On the 1 June, 2010 at about 1 pm, Samira and his friend Lahiru were working in the garage at Kiriulapana Road, Urubokka. At that time one of the officers of the Urubokka Police station,

Inspector of Police (IP) Chandrasena came to the garage and asked who was in charge. Then Samira answered that he was the one in charge. Then IP Chandrasena instructed Samira to close the garage and accompany him to the Police station. Samira asked for the reason and was told by Police Constable (PC) Nissanka, who accompanied IP Chandrasena that it would be explained when they arrived at the station. Samira and Lahiru then got into the police jeep. Inside the Jeep an officer took Samira and Lahiru's Mobile phones and the wallets containing over Rs.5000.00 (USD 45).

It was evident to Samira that the jeep was returning from the courts. Inside the vehicle there were two barrels filled with something that Samira suspected was illicit liquor. Further he noted that there were some plastic bags containing some files and books.

When they arrived at the station Samira and Lahiru were asked to remove those items from the jeep and take them inside.

One officer took Samira towards the Criminal Investigation Branch while Lahiru was taken to the Complaint Recording Branch. After some time IP Chandrasena asked Samira to return the items he had stolen. Samira immediately replied that he had not stolen anything. At that moment two officers who had been in the jeep, who were in civilian clothes approached Samira.

These two officers brought Samira to another room and made him sit. Then one officer asked him the same question as to the location of the stolen goods. Samira repeated that he had not stolen anything. Then the officer was more specific and asked about 'the jewelry, wedding ring and the necklace.' Again Samira denied any knowledge of the stolen goods. Another officer quite innocently ordered Samira to remove the shirt and slippers. Then PC Nissanka caught hold of Samira's neck and head, pushed him to the floor and grasped his head between his legs. Thus trapped Nissanka thrashed Samira's back mercilessly.

Following this assault another officer dragged Samira to a deserted house, close to police lavatories where he assaulted him repeatedly. Samira was blindfolded with a cloth, his hands and feet were bound and he was hung from a wooden pole passed between his wrists and ankles. He was then continuously assaulted with a bamboo pole.

They continued the assault while pouring water into his nose and the mouth. Samira felt difficulty in breathing, but they carried on regardless. Another officer had brought a piece of S'lon pipe which they inserted into his rectum. At that moment Samira cried out that he was innocent and pleaded for mercy.

After that the officers Samira down and ordered him to jump up and down while the thrashing continued.

Another officer from the traffic branch joined in the assault knocking him to the floor. Samira continuously pleaded with them not to beat him anymore. One of the officers told him that if he

died they would put him in a empty cement bag and through him off the parapet wall. Finally they brought Samira near the police cell where there was a home guard officer of the area. This man also shouted at Samira in filth and slapped him on both ears as if he was clapping his hands. For few minutes Samira felt stunned.

Later, Samir saw his mother, Mrs. Wijesiri Devanarayanage Kalyani arrived at the Police station, but Samira refrained from telling her anything for fear that he would be beaten again.

Samira noticed that there were some incoming calls to his mobile phone and the officers told him to answer them, but not to reveal any more details other than that he had come to the Police station to repair some motorcycles.

Then he noted that there was an incoming call from the Chairman of the Pasagoda Pradeshiya Saba regarding his arrest. The police had informed the Chairman that it was a case of possession of cannabis.

Lahiru too had been near the cell and the officers warned both of them that if they disclosed the incident to anyone they would be killed. They were told to say only that they came to repair police motorcycles.

The Officer-in-Charge (OIC) arrived and inquired from the other officers, whether they were able to find any drink (liquor). After about one hour he returned and assaulted Samira.

The following morning (2 June), Samira and Lahiru were released. They were warned to return to the Police station with the stolen jewelry or else the police would come after them. Then the officers returned the mobile phones and their wallets.

Upon their release the police warned them again that if they disclosed this incident to anyone or if they took any action against the police, bombs or drugs would be planted in the garage and they would be arrested. They were then told "Get out, you dogs".

Samira and Lahiru left the police station under the supervision of a police officer who remained with them until they took a bus. When Samira arrived at the garage, his family was there and there was also a police officer who left as Samira approached the garage. He realised that the officer was there to confirm the fact that he returned to the garage instead of going somewhere else to make any complaint on torture.

Samira's mother took him to the Kosnigoda Government Hospital where the admitted him for further treatment. He was discharged the following day. However, as Samira was in severe pain, he was brought to the Teaching Hospital of Karapitiya. There the Judicial Medical Officer (JMO) examined Samira and warded him. He was discharged from that hospital on 5 June. When he

returned home a police officer was there waiting for him. When Samira asked him for the reason of his visit the officer left.

During the whole process the police at no time had taken a statement from Samira and Lahiru nor shown any complaint made against them by anyone. The police did not produce them before a court of law or charged them for committing any crime.

Later Samira made a formal complaint to Inspector General of Police (IGP), Deputy Inspector General (DIG), National Police Commission (NPC), Senior Police Superintendent (SSP) Matara, OIC Urubokka Police station and the Human Rights Commission (HRC).

Presently Samira has closed down his garage and left the area fearing for his life. He suspects that at any moment police might come for him. He states that as during last few years few hundreds of people have died in different places in the country while they were in police custody he is in fear that he would be rearrested and killed by the police officers. Further he states that he has not committed any crime and is an innocent citizen.

### **291. Koronchilage Anandalal Aruna Rohana: Anamaduwa Police illegally arrested, detained and tortured a school-boy and filed fabricated criminal charges**

The Asian Human Rights Commission (AHRC) has received information that a 17 year old school going child was illegally arrested by the police officers attached to the Anamaduwa Police station, arbitrarily detained and tortured. Later, the police produced the child before the Magistrate of Puttalam with fabricated charges and remanded. When he was in Negombo remand prison a Prison officer also tortured the child.

According to Koronchilage Anandalal Aruna Rohana of No.41, Sangattikulama, Anamaduwa, the father of Koronchilage Sujith Aruna Shantha, (17), Sujith is a student of Sangattikulama Junior School. Having passed the Ordinary Level Examination he was preparing to sit for the Advance Level Examinations. On 4 June 2010, during the school interval, Sujith had a confrontation with a 10th grade student by the name of Tharidu during which blows were exchanged. Tharidu suffered a scratch on his face and Sujith reported the incident to the principal. The principal had send Sujith home which he reached at about 12.30 in the afternoon. Tharidu's father, Stanley Joseph is a well known businessman in the area.

On the same day at about 3pm, six persons in civilian clothes arrived at Sujith's house saying that they were from the Anamaduwa Police station. Two of them went to Sujith's room, two others guarded the front door and the remaining two the rear door. The two persons, who went into Sujith's room, brought him out of the house holding him by the neck and put him into a brown coloured vehicle that had been parked near the house. Inside the vehicle there was a uniformed

police officer (33619). At that moment four of Stanley Joseph's employees turned up on two motor cycles, and they followed the police vehicle.

On the way to the Police station, a constable named Chandratilaka, pushed Sujith to the floor of the vehicle and assaulted him violently. He told Sujith, "I am going to put an end to your thuggery". At the Police station Chandratilaka, dragged Sujith, holding him by the neck, and threw him to the floor near the entry sergeant. While taking down the entry, Chandratilaka repeatedly assaulted Sujith.

At about 4.30pm Sujith's father went to the police station to visit Sujith. There he had seen Sujith on the floor while Chandratilake was slapping and assaulting him about the head. Sujith's father demanded to know why Chandratilaka was assaulting his son. Then Chandratilaka had told the father to return to the Police station on the following day.

Thereafter Sujith's father had left the Police station following which another police officer named Ratnayake had taken a steel belt from a cupboard and started beating Sujith on the back.

At about 6pm Sujith's father returned to the Police station to visit Sujith with a dinner parcel. There he had seen his son inside a police cell.

On that particular night Sujith's father had telephoned the Principal of the school, Mr. Piyasena and had inquired about the incident. The principal had told him that there had been an exchange of blows between Tharidu and Sujith. Also he had told him that he sent Sujith home and Tharidu to the hospital. There the doctors had examined Tharidu and then sent him back to the school where he remained until going home in the afternoon. Tharidu's grandmother had taken him to the Anamaduwa hospital. On 5 June, at 6pm, Sujith's father had gone to the hospital and had seen Tharidu. There he had spoken to Tharidu and had inquired about his condition. Tharidu had told him that he was all right and there was nothing serious.

As Sujith's father was leaving the hospital he met Tharidu's parents. He asked Stanley what action he was going to take regarding the incident. Stanley replied, "We will see to that at the Police station". Then Tharidu's mother said quite openly, "We got the Police to punch your son properly".

On the same day Sujith's father had inquired from the police as to what they were planning to do. They replied that they would produce Sujith at the Magistrate's Courts at 12.00 noon that day. At 12.30pm Sujith was produced before the acting Magistrate of Puttalam with fabricated charges of assault. There he was remanded and send to the remand prison of Puttalam. Later, Sujith's father had visited Sujith at the Puttalam prison and had given him food and clothes.

On 6 June 2010, when Sujith's father returned to Puttalam Prison, he was told that Sujith had been transferred to the Negombo Prison. He returned to the Anamaduwa Police station, where he was told that Sujith would be released on bail on 10 June.

While Sujith was detained in Negombo Remand Prison, an officer had assaulted Sujith. He told

Sujith, "I heard you are a thug in your village. Pradeep of your village told me that you are a thug in your village and told me to treat you with some punches". Pradeep is a supporter of Stanley. Prison Officers had allocated 2813 as his number and sent him to the YO (Young Offender) ward. In the night Sujith had difficulty in breathing and other inmates had applied "Siddalepaya" (herbal ointment) on his chest. On 7 June in the morning, Sujith had gone to the morning parade with help of the other inmates.

Anamaduwa Police has filled a fabricated false charge against Sujith under case No: B.R 205/10 and produced him at the Magistrate' Court of Anamaduwa, where he was released on a personal bail of Rs.10, 000.00. The case will be taken up again on 14 October 2010.

On returning home Sujith felt sick again and was taken to Anamaduwa Hospital at about 5.30 in the evening. After examine Sujith, the Doctors had transferred him to Kurunagala General Hospital at 8pm. in an ambulance where he was warded in ward no 23, bed no.19. He was discharged after four days, on the 14 June.

The victim has complained to the Sri Lanka Human Rights Commission (HRCSL) and has made written complaints to Inspector General of Police (IGP), the National Police Commission (NPC), the OIC Police station of Anamaduwa, the Attorney General (AG), and National Child Protection Authority (NCPA).

According to the victim the perpetrators, police officer No.33619, Police Constable Chandratilake and Ratnayake are attached to the Police station of Anamaduwa and are still serving in the same Police station. The victim and his family fear for their lives and seek protection as they seek justice against the perpetrators.

## **292. Alhaj Farook Mohomad Ikram: Balagolla police officers beat, humiliate and arbitrarily arrest another civilian**

The Asian Human Rights Commission (AHRC) has received information about the arbitrary arrest and assault of a man by Balagolla police. Although he was released on the same evening without being charged, the man's ear drum was damaged in the assault and he was hospitalized for a number of days. He has received no replies from the authorities regarding his requests for redress and compensation.

According to the information that we have received, on 17 June 2010 at around 8pm two officers from Balagolla Police station, along with two civilians, violently intercepted Mr. Alhaj Farook Mohomad Ikram close to his home.



We are told that the victim was using his mobile phone when one of the police officers, later known to be a Mr. Kithsiri, aggressively handcuffed him. Kithsiri was in plain clothes, did not identify himself and reportedly struck Farook's left ear before pushing him into a three-wheeled vehicle. The victim was not told the reason for his arrest and when he asked he was told to be silent. We are informed that the officers and the civilians – identified as Raja, the son of a man called Abdul Kareen, and Raja's wife – then took a tea break outside a small hotel, leaving Farook handcuffed to the vehicle in public view.

At Balagolla Police station Farook was told that he faced charges of entering unlawfully into Mr. Raja's shop, and he reports that he was struck once more to the head by Officer Kithsiri, then taken to the Officer in Charge (OIC). After a short interview he was stripped of his possessions and detained in a police cell. His two brothers were able to visit him there and take him food. The following day we are told that Farook's father and two other male relatives made inquiries at the Police station, and appealed to the OIC. Farook was questioned for a second time and at 11:30am he was released without bail or charge. However he worries that because his details are now recorded at the Police station, he will be vulnerable to further fabricated charges.

The victim has had trouble with ear ache since the assault, and has visited various doctors. One local doctor referred the victim to Manikhinna Hospital, where he was admitted for two days. He was then moved to the Kandy Hospital where he was attended by an Ear, Nose, and Throat Specialist (ENT), and asked to stay for three more days. After examination by a Judicial Medical Officer (JMO), Farook was told that his ear drum had been severely damaged in the assault. Farook wrote to the Deputy Inspector General of Police, the Inspector General of Police and the Human Rights Commission of Sri Lanka on the 24 June, requesting the discipline and prosecution of Officer Kithsiri and compensation for his injuries, but has not received responses from them at the time of this appeal.

### **293. Seelawansha Hitihamilage Don Samantha Priyalal: Baduraliya police illegally arrest and torture a man**

The Asian Human Rights Commission (AHRC) has learned that a man was illegally arrested in Kalutara by Baduraliya police, and tortured severely in the police barracks to force a confession. Police used the 'Dharma Chakra' technique of suspending the handcuffed man on a pole that was inserted into the crooks of his bound knees and elbows. Although charges have now been filed against him, no investigation into his allegations of torture has taken place, despite his injuries and his time in hospital.

According to information received by the victim, Seelawansha Hitihamilage Don Samantha Priyalal, 38, was arrested close to his home at around 10:45am on 29 June 2010, while in the house of an acquaintance in Gnanathissa Udakala Village, Hadigalle, Gurulubadda.

We are told that three officers from Baduraliya Police station arrived in a three wheeler vehicle including police constable (PC) 29027 and a Sergeant Gunaratne, who was in plain clothes. The officers arrested Priyalal with the resident of the house, Susil Banduthilaka, and another man called Priyantha, yet reportedly did not give the reason or grounds for their arrest as legally required.

The men were taken to Baduraliya Police station in three wheeled vehicles. PC 29027 and another officer took Priyalal to a room in the back portion of the Police station, which is used by the officers for sleeping. According to the Priyalal he was then undressed, his handcuffed hands were placed between his legs and a large pole (a Mol Gaha) was used to lift him off the ground and suspend him; each end was supported by a cupboard. Priyalal reports that he was beaten while suspended, naked, for approximately 30 minutes, with the beating led by PC29027. He was told to confess to breaking into a house and stealing gold jewelry.

After he was released onto the ground for a short period officers also beat the soles of his feet with sticks. They then allegedly left him handcuffed to a bed for the rest of the night.

We are told that at around 7.30am the next day Priyalal was placed in a police cell, where relatives were able to visit him. They told him that when they and a lawyer, Chandana Kuruppuarachchi, had tried to visit the previous day but the police had denied that Priyalal was in custody. Priyalal told them that he had been tortured by particular officers.

At around 10.30am his elder brother, a Buddhist monk called Hadigalle Vimalasara, joined his elder sister and wife at the station. They could see that Priyalal's legs had swollen painfully and that he found it hard to move, so at the request of Vimalasara, the Inspector of the Police station, Damith Jayathilaka, allowed officers to take the victim to the Government Hospital of Baduraliya. The doctor there saw Priyalal's condition and refused to treat him, telling them that such a case should be taken to the larger hospital in Nagoda. The police put the victim back in a cell at the station, untreated, and at noon they gave him a statement to sign, but refused to explain its content. We are told that the victim was then taken to the judicial medical office in the General Hospital of Nagoda, but that police officers requested a private meeting with the JMO beforehand. Priyalal then related his experience of torture and showed the doctor his swollen legs, but he claims that the JMO – named Hemantha – did not examine him.

At 4pm that day Priyalal was produced before a magistrate in his chambers at Mathugama, and a case number B/60104/10 was assigned. Though Priyalal pleaded not guilty to theft, he says that he was not given the chance to tell the judge about his torture. He was granted personal surety bail (Rs. 100,000). On his way home a few police officers told him to join them in their vehicle. He refused and returned home by bus.

Priyal checked in to the General Hospital of Nagoda again, and was on a ward until 2 July, causing him to miss his court appearance. He was represented there by his lawyer. A statement was recorded

by hospital police and he was properly examined by a different judicial medical officer. The victim was later told that police only admitted to having arrested him after his brother Vimalasara contacted the minister of the western provincial council, Udaya Gammanpila, who intervened. Priyalal was also informed that the complaint against him had been filed by a Saman Jayasinghe of Gurulubadda in Hadigallegama, who we are told is a relative of a policeman at Baduraliya station.

#### **294. UPDATE Upul Palitha Mawalag: The trial of a three-wheeler driver lags; his allegations of torture are not investigated**

The Asian Human Rights Commission would like to report that the case of a three-wheeler taxi driver charged with carrying drugs - which he claims were found in the possession of his passengers - is being continually stalled by police in the Maligakanda Magistrate's court. The man remains in remand, unable to afford bail, and tried to commit suicide twice last year. His trial must be expedited and his allegations of torture investigated as soon as possible.

Three-wheel taxi driver, Upul Palitha Mawalag, was arrested along with his two passengers in May 2009 during a routine search by Bluemendhal police. Mawalag has since been charged with drug possession. The victim reports that the passengers had been found with the drugs, but were inexplicably released. We are told that the officers first claimed that Mawalag carried drugs in the back of his vehicle, but the details of case B6425, filed in the Maligakanda Magistrate's court, state that he carried drugs in his pocket. Please read more in the original appeal in August 2009: <http://www.ahrchk.net/ua/mainfile.php/2009/3227/> *Police torture a taxi driver for the drug crimes of his passengers.*

We are informed that his case has been routinely postponed by the request of the prosecution and that bail took until January 2010 to be awarded. This is largely because the bail application needed to be filed in the Court of Appeal in Colombo, with the assistance of a Colombo lawyer, which was paid for by an NGO. However the detainee has since been unable to post the Rs.150,000 bail. We urge that his trial is credibly taken up and expedited.

We are also told that there has been no investigation into Mawalag's allegations that he was stripped naked, tied to a chair and beaten severely with a stick by officers in a bid to force a confession, nor into his attempted suicides. This is strictly and urgently necessary, and should torture be proven to have been involved in the investigation, he should be immediately released.

**295. Hewawasam Sarukkalige Rathnasiri Fernando: A man was severely tortured, illegally arrested and detained by the Welipenna police who then filed fabricated charges against him**

The Asian Human Rights Commission (AHRC) has received information that a man was severely tortured before being illegally arrested and detained by officers of the Welipenna Police station. Following the torture the officers displayed the man in public before the villagers before taking him to the station where they later filed fabricated charges against him. He has been enlarged on bail and treated for his injuries at the General Hospital of Nagoda.

According to Mr. Hewawasam Sarukkalige Rathnasiri Fernando (50) of No: 07 D, Warapitiya, Darga Town he is married and the father of four children. He is a toddy tapper by profession.

On 9 August 2010 around 3.30 pm he was in his usual working place at Aandawala, Parapathkotuwa. At that time he was honing the knife that he uses for his work. He noticed two unknown persons in civilian clothes entering the area. They inquired of him the possibility of buying some toddy as they like it. He told them that there was none available and he could not provide any. They repeated their requests which turned into demands. However, he repeatedly gave them the same answer. When they started to threaten him he asked them who they were. Then they revealed that they were from the police and one of them tried to grab the knife that was in his hand. The person who did accidentally received a small cut injury on his hand. The same officer ceased the knife and ran it down Rathnasiri's back cutting it deeply. The wound subsequently required nine sutures to close.

While the wound on his back was bleeding profusely the two officers started to assault him by kicking and punching him. They struck him about the body, face, chest and stomach. They tore off his clothes and use the rags to tie his hands behind his back. He was then forced to walk for about 400 meters in front of a crowd of people who pleaded with the officers not to assault him further. They told them he was innocent and suffering from illness.

Rathnasiri learned later that one of the witnesses took a video of the incident with his mobile phone which clearly reveals how the victim was tortured. The women who witnessed this act of violence were able to release Rathnasiri's hands and dressed the wound on his back with some fabric. One person in the crowd brought some clothes and helped to dress Rathnasiri.

The people surrounded the police officers and accused them of being drunk and doing an inhumane act which the officers arrogantly accepted. In doing so they were indicating that they had no fear of any repercussions. The people objected to the officers to forcing Rathnasiri to walk as they felt his condition would worsen. However, at that time three more police officers came to the scene in a three-wheeler and took him to Welipenna Police station.

In the Police station Rathnasiri was asked to sit on a bench. The Officer-in-Charge (OIC) of the station called him and the two officers involved in the torture and arrest to his office. After

Rathnasiri revealed how these two officers tortured him the OIC shouted at the officers in front of him. After one and a half hours the two officers who tortured him brought Rathnasiri to the house of a doctor of the Government Hospital of Waththewa by a truck. On arrival the two officers went into the doctor's room and spoke with him for a considerable time. They then produced Rathnasiri before a lady doctor to whom he explained all that had happened to him at the hands of these officers. After examining his injuries the doctor directed them to take Rathnasiri to the Waththewa hospital as sutures were needed as the condition of the injuries was serious. He was then brought to the hospital where the doctors admitted him for further treatment. The police officers at the scene advised the officer who had a minor injury on his hand to also get admitted to the hospital.

The following morning as Rathnasiri noticed unusual pain in his ears which he pointed out to the doctor. After examining him and finding some bleeding in his ears the doctor referred him to the General Hospital of Nagoda for further treatment. When the doctor asked the reason for not showing the ear condition on admission Rathnasiri explained that at the time his ears were numb. The same doctor who examined Rathnasiri also examined the policeman with the minor cut on his hand and informed him, in Rathnasiri's presence that he could be discharged from the hospital. Later another doctor came and examined him while five more policemen witnessed the examination with the consent of the doctor.

While the doctor was questioning Rathnasiri he revealed that he was experiencing pain at several places including his face, eyes, ears and chest. After the second doctor left the place two police officers came to Rathnasiri and informed him that they wanted to record a statement from him. Rathnasiri asked the officers which Police station they are belonged to.

When they replied that they were from Welippena police station Rathnasiri told them that he had already given a statement. The officers told him that a well known businessman of the area, Mr. Siripala, had mentioned that the matter can be settled so they wanted to record a statement. They then forced him to sign a document which they had written which he did out of fear. Rathnasiri says the statement was not recorded from him and he was not allowed to read it. Furthermore the content of the statement was not read to him. He further says that he denied content of the statement.

Around 3.30-4pm the hospital staff brought Rathnasiri to the General Hospital of Nagoda by state ambulance and the doctors admitted him to ward number 5B. However, due to the overwhelming number of patients a doctor told the officers that Rathnasiri could be discharged. Rathnasiri had to sit on a bench till 10pm. Then two prison officers came and brought him to the remand prison of Kaluthara where he was remained till 17 August. While he was in prison the authorities took measures to treat his injuries as well.

On 17 August he was produced before the Magistrate of Matugama where he learned that the police had filed a fabricated case against him accusing him for causing grievous hurt, causing minor hurt

and obstructing the official duties of the police. Rathnasiri denied the charges and stated that these are baseless and that the police have introduced these fabricated charges to hide the truth behind cruelly torturing him. Further police officers filed one more fabricated case against him on possession of 40 grams of illicit liquor.

Rathnasiri totally denied that charge as well. However after Rathnasiri successfully submitting the fact that he was severely subjected to torture the Magistrate directed the Judicial Medical Officer (JMO) of Colombo to examine him and send the report to the court. Considering the facts relating to Rathnasiri's case the learned Magistrate enlarged him on bail.

He was examined by JMO Colombo on 19 August and also examined by the Consultant Ear Nose Throat (Consultant doctor on ENT) on 20 August. Rathnasiri made several complaints to the Inspector General of Police (IGP), Superintendent of Police (SP) Kalutara, National Police Commission, Sri Lanka Human Rights Commission and the Secretary, Judicial Service Commission, asking for a prompt, effective, impartial and independent inquiry against the crimes committed by the police officers against him. However, nothing has happened. He feels that his rights for justice have been denied by the relevant authorities in the country.

#### **296. Manivel Saundrarasau: Pussellawa Police illegally arrested, detained, tortured, and filed fabricated charges against an estate labourer**

The Asian Human Rights Commission (AHRC) has received information that an estate labourer was illegally arrested by police officers attached to the Pussellawa Police station and arbitrarily detained and tortured. Later, the police produced him before the Magistrate at Hellbodde Circuit Court on fabricated charges of possession of materials used for to produce illicit liquor. After learning that the victim is taking legal action against the police officers who violated his rights the officers concerned rearrested him and threatened him with future false charges.

Manivel Saundrarasau (46) of Ayarie Division, Frotoft Group, Ramboda, is a laborer in the Frotoft estate. He is married with two children, a daughter and a son both of whom have completed their studies. On 10 August 2010 three police officers attached to the Pussellawa Police station came to Manivel's house and inquired about him. One officer was in uniform bearing number 73252 and the others were in civilian clothes. Since Manivel was not at home, the police officers have given a notice to his wife, Angal Selvi, asking him to present himself at the Pussellawa police station by 4pm on the same day. Manivel received the message when he was at the Kovil (Hindu temple) and immediately went to the Pussellawa police station.

When Manivel went to the police station he saw a barrel and a hose pipe within the police compound. Later the officer in the station accused him of making illicit liquor and he was slapped and was pushed into a police cell. Manivel categorically denied that the materials belonged to him at anytime. In the evening his wife went to the police station to visit Manivel. Later he was released on

police bail, which was signed by his wife as surety. However, Manivel was asked to appear before the Hellbodde Circuit Court on 18 August, 2010.

When he appeared before the Magistrate he found that the police have filed fabricated charges of processing "Goda" (which is used to make illicit liquor) and possessing a hose pipe and 2 barrels for the same purpose, against him. In the charge sheet it mentioned that the items were detected on 10 August 2010, the day he appeared at the Police station. However Manivel categorically states that he has never been involved in making illicit liquor nor had any previous convictions.

When the case against Manivel was taken up before the Magistrate, an Attorney-at-Law appeared on his behalf and pleaded not guilty for the chargers filed against him. For an estate labourer it is not usual to retain a lawyer and pleading not guilty as the proceedings would take numerous appearances and time due to the prolonged delays in the courts.

Later on the police suspected that Manivel was being assisted by civil society activists or an organization which works in the field of the promotion and protection of human rights on a pro bono basis. They then began to follow him in the hopes of finding further incriminating evidence against. Then two police officers attached to the Pussellawa Police station arrived in civilian clothes at his residence on 3 September at around 6.30am and questioned him about seeking the assistance of a human rights organization.

When he was being questioned, in front of his house, people of the neighborhood started to gather, including the Grama Sevaka (state officer belong to the village). Then the police officers asked Manivel to get into the jeep which was parked on the main road.

He was then taken towards Pussellawa town and on the way he was threatened by these two police officers that they would rearrested him on many other fabricated chargers for taking action against the police officers on the basis of violating his human rights. He was finally dropped off and the jeep went towards Pussellawa town. Presently Manivel is in fear that he would be rearrested and laid with fabricated charges. Further he is in fear that police officers would continue to threaten and harass him and his family members in future.

**297. Amarasinghe Arachchige Simon Amarasinghe: A man succumbs to his injuries of torture by the Kirindiwela police** The Asian Human Rights Commission (AHRC) has received information that a man who was severely tortured later succumbed to his injuries. He was arrested by police officers attached to the Kirindiwela Police station who later fabricated the story that the deceased had fallen out of a police vehicle. However, several villagers witnessed the deceased being assaulted about the head and being beaten with a pole. The police intentionally are now denying the family of the deceased by avoiding a proper investigation into the torture and murder.

According to Mr. Amarasinghe Arachchige Simon Amarasinghe of No. 239/6, Thel Kakuna, Wanaluwawa, his elder brother Amarasinghe Arachchige David of No. 172/B, Siyambalagahawatte,

Papiliyawala in the Kirindiwela Police Division succumbed to injuries suffered due to severe torture while he was in the custody of the Kirindiwela police on 13 August 2010.

David was arrested by the officers attached to the Kirindiwela Police station on 13 August and brought to the station by a police TATA cab together with the arresting officers. At around 8.40pm the people present on the side of the main road at Papiliyawala noticed the police cab coming from Papiliyawala and stopping at a boutique.

The uniformed police officers who got down from the front seat of the cab started to inspect two boys who were sitting on the concrete bench near the boutique. The two boys, Mahesh and Ariyasinghe were local villagers. They were thoroughly searched by the officers for some time. Meanwhile the people on the road side were keen to see what was happening. They witnessed that David, a well known villager, alighted from the cab and was watching the conduct of officers who were searching the boys.

The officers who did not find anything suspicious with the boys noted that David had alighted and was watching them. Without warning a police officer beat David on his back and hip area with a pole. David started pleading loudly to the witnesses asking that they rescue him.

The officer dragged and pulled David towards the vehicle where he hit his head against the rear door. While he was doing so he shouted to David, "Are you trying to escape from us?" The officer angrily repeated the question which David was unable to answer because he was stunned by the beating. Then two officers had to push David into the jeep as he was no longer able to walk or move without assistance.

The assaulting officer got into the front seat of the vehicle when then moved off towards Dangolla.

A large number of people who were getting ready to attend a funeral in front of the house of Mr. Dayarathna witnessed the assault and particularly the act of intentionally striking his head against the body of the cab near the rear door. Many of the witnesses who are keen to see justice against this incident are ready to give their testimonies. They are categorically state that they can clearly identify the police perpetrators.

David was first brought to the Kirindiwela Police station and then admitted to the Government Hospital of Radawana. The hospital authorities transferred David to the National Hospital of Colombo as the condition was serious due to the gravity of the head injuries caused during the assault by the officers. Amarasinghe Arachchige David died a short time later.

On 14 August, two police officers went to the house of the victim's brother, Simon, on a motorbike. They looked at him without saying anything and then left. Later another two police officers arrived. One of them was Sub Inspector (SI) Kollure. SI Kollure touched Simon's hand in a kindly manner



and asked him to come to the Police station with him to finalize the documentation with regarding the death of his brother. Simon refused and told the officers that he did not want to go to the station. The other officer present told Simon that the police would look after all the expenses of the funeral and would not allow anything wrong to happen in the future. Though Simon told them he had to go to his parent's house they pleaded with him to accompany then to the Police station and give a statement. They told him that they would help to get the body release without any hindrance from the hospital authorities.

Finally Simon went to the Police station where he found a tense situation. A large crowd had gathered and the police officers were standing in readiness. Two higher ranking officers were directing them. The officers went to Simon and told him that in order for the body to be released he had to sign a statement but he refused.

Then SI Kollure asked Simon and one of his relatives to accompany him to the National Hospital of Colombo where they were taken in a police vehicle. At the hospital Simon was taken to the mortuary where SI Kollure partially showed him David's body. He then ordered the hospital staff at the scene not to allow anybody to see the body. Simon saw a Magistrate arriving who made some and then he understood that the police were rushing to get the body released without a proper examination.

The post-mortem examination was finally conducted on 15 August and SI Kollure and another officer were present inside the mortuary with the Judicial Medical Officer (JMO). After about an hour the JMO came out of the mortuary and informed Simon that the death was caused by a head injury received when David fell to the ground from the police vehicle. Simon and his relatives vociferously denied the findings. The JMO then admitted that while there was a bruise on David's chest it was probably due to the attempt by the doctors to artificially palpate David's heart. Simon realised that the officers were trying to establish the case that David had fallen from the cab while it was in motion. Simon questioned the JMO that if, indeed, David fallen from running cab then there should be further injuries such as grazing and contusions. Simon told the JMO that there were abundant witnesses who would testify as to how David was assaulted and how the police officers had dashed his head against the body of the cab. However, the JMO simply left the scene and Simon noted that SI Kollure and the other police officer were happy with the result of the autopsy.

Simon categorically states David's arrest and detention was illegal and arbitrary as he has not involved in committing any crime.

Simon and his relatives are keen to seek justice in the murder of their brother David. They state that police did not conduct an impartial inquest into David's death and that they are intentionally avoiding the recording of statements from the most important eye witness of the crime. They are intentionally delaying and neglecting to make necessary scene visit to the incident. They are intentionally avoiding the production of the relevant evidence including blood stains from the

vehicle to the court for examination by the Government Analyst. They state that the police are misleading the Magistrate's Court and are not proceeding with a proper investigation in accordance with Criminal Procedure Code and the Departmental Orders.

Simon firmly believes that police officers attached to the Kirindiwela Police station will not carry out an impartial inquiry against their own officers who are directly responsible for this torture and murder. They are asking the higher authorities to direct the Special Investigation Unit (SIU) of the Criminal Investigation Department (CID) of police to conduct an impartial and prompt investigation in order to bring the police perpetrators before the law.

#### **298. W.A. Lasantha Pradeep Wijerathna: Criminal Investigation Department officers torture a man then attempt to kill him**

The Asian Human Rights Commission (AHRC) has received information that the Sri Lankan Navy arrested a civilian and later handed him over to officers of the Maravila Police station. They in turn handed over the victim to officers of the Criminal Investigation Department (CID). Later the CID officers tortured the victim and denied him urgently needed medical treatment for the injuries suffered due to the torture. He was later produced before the Magistrate of Negombo and remanded. The Magistrate ordered a Judicial Medical Officer (JMO) to examine the victim.

According to W.A. Lasantha Pradeep Wijerathna of No. 98, Galahitiyawa, Ganemulla, while he was at Maravila in between 7.30-8pm of 14 August 2010 a group of officers of the Sri Lanka Navy arrested him. Then Navy officers handed him over to the police officers at Maravila Police station the same day and they in turn handed him over to officers attached to the Criminal Investigation Department (CID).

Lasantha was brought to the CID headquarters at Colombo and detained in a cell on the fourth floor of the building.

At 8.30am on 15 August Sub Inspector (SI) Sanjeeva of the CID came to the cell where Lasantha was detained and took him out. He was taken to another room and questioned as to whether he had any relationship with the Liberation Tigers of Tamil Eelam (LTTE) and what he knew about a ship that was scheduled to go to Canada. He repeatedly denied any connection with the LTTE and told the officers he knew nothing about the ship. When he continued to deny any connection or knowledge SI Sanjeeva started to assault Lasantha. He was repeatedly kicked and struck about the head.

SI Sanjeewa kept a wooden board on the head of Lasantha and started to insert nails to the board using a hammer making enormous pain to the head of Lasantha several times but still he (Lasantha) denied any knowledge on the two allegations of having involvement with LTTE and its ship. Several other CID were present and also joined in the assault but while Lasantha could recognised them if he were to see them again he does not know their names.

Lasantha notice there were several other detainees with him in the CID cells while he was being tortured.

Then on 17 August at around 4.30pm Lasantha was brought out from the cell by Inspector of Police (IP) Paranavithana and other officers of the CID and together with some other detainees brought to the office of the Judicial Medical Officer's (JMO). While they were on their way IP Paranavithana threatened Lasantha and the other detainees that if they revealed any details of the torture they would be further detained with Detention Order (DO) and tortured with the Darma Chakkra ('Wheel of Law') method (*a method in which the hands and ankles are tied together, a pole is then inserted between them under the knees and the victim is suspended by the pole. The officers then continue to beat the victim whilst he is suspended in this manner. This is common method of torture used by the Sri Lankan police*).

As a JMO was not present at the office for examination the officers took them back to the CID. While they were coming back the officers stopped the vehicle at the Elphinston Cinema Hall at Maradana. The officers then told the detainees, including Lasantha, to get out of the vehicle and run fast. It was evident to Lasantha that the officers wanted to make it look as if they were escaping so they could shoot them. However all were handcuffed at that time. Then suddenly IP Paranavithana realised that there was a huge crowd watching and stopped the officers.

After that Lasantha and the others were brought back to the CID offices and question again on similar matters. They also suffered further tortured. Later Lasantha was produced before the Magistrate of Negombo on the suspicion of committing a crime under the provisions of Immigrants and Emigrants Act No. 20 of 1948 and remanded at Remand Prison Negombo.

After being subjected to continuous torture by the police officers Lasantha suffered several injuries. However, despite the fact that his injuries were severe the officers made no attempt to provide medical attention.

At the very first occasion on 27 August, Lasantha's relatives were able to get an Attorney-at-Law to appear on his behalf. The Attorney informed the Magistrate that Lasantha was in severe pain due to extensive torture and needed to have proper medical treatment. The Magistrate instructed the prison authorities to provide the necessary medical treatment at the Negombo Base Hospital but he was not given medical treatment till 30 August. He was admitted to ward No. 6, bed 14 on 31 August. The JMO finally examined Lasantha on 1 September.

Despite Lasantha's relatives informing the court of the torture perpetrated on Lasantha by the offices of the CID the relevant authorities of the state have not yet initiated any steps to investigate the crimes committed against him. The relatives and Lasantha seek an effective, prompt, impartial and independent investigation into the crimes committed against him and the prosecution of those who committed them.

**299. Balapuwaduge Suresh Sumith Kumar Mendis: Criminal Investigation Department officers illegally arrested, detained and tortured a man and denied him the right to medical treatment**

The Asian Human Rights Commission (AHRC) has received information that the Sri Lankan Navy arrested a civilian and later handed him over to officers of the Maravila Police station. They in turn handed over the victim to officers of the Criminal Investigation Department (CID). Later the CID officers tortured the victim and detained him for 6 days without providing the necessary urgently needed medical treatment for the injuries suffered due to the torture. He was later produced before the Magistrate of Negombo and remanded. The Magistrate ordered a Judicial Medical Officer (JMO) to examine the victim. However, the JMO did not conduct an impartial examination.

According to Balapuwaduge Suresh Sumith Kumar Mendis, a resident of Ambakandawila, Iranawila, Chilaw, he is an experienced fisherman. Due to the political situation in Sri Lanka Sumith attempted to enter Australia by sea as he believed that if he tried to leave Sri Lanka by air he would be arrested at Katunayaka International Airport (KIA). However, despite of his application to remain in Australia on political grounds and on the basis that he would be subject to torture if he was returned to Sri Lanka, his application for asylum was refused. He was deported to Sri Lanka in October 2009.

Sumith's brother, Indika, also who made a similar refugee claim to Australian authorities was also deported. The officers attached to the CID at KIA arrested Indika who was tortured, produced before the courts and remanded. In early August, 2010 Sumith was contacted by unknown caller who told him he was calling from the Australian High Commission (AHC) in Sri Lanka. The caller requested Sumith to come to the AHC to collect his and his brother's belongings that they left in Christmas Island. As this request happened around one year after they were deported, Sumith suspected the caller.

Later, he contacted his Attorney-at-Law and sought legal assistance. Following this Sumith contacted the unknown caller and informed him that his lawyer could pick up his belongings with his written consent. A few days later Sumith received another similar message from another unknown caller who revealed himself as an officer of the Criminal Investigation Division. This caller asked Sumith to come to the CID. Sumith gave that particular number to his lawyer who contacted the caller and verified that he was, in fact, from the CID. The lawyer informed them that he was ready to come to the CID with Sumith for any legal inquiry or interrogation at any time and requested an appointment which was duly arranged.

However, irrespective of the above mentioned situation Sumith was arrested by officers of the Sri Lankan Navy on 14 August 2010 at Negombo. These officers subsequently handed over him to the Maravila Police station who then passed him on to officers of the CID on 15 August 2010. Sumith was detained at the CID headquarters along with some others who had lived in Negombo and been deported from Christmas Island, Australia.

On 18 August 2010, Sumith was taken to his hometown and severely tortured by the CID officers in front of other villagers. The torture was witnessed by his mother, wife and many other relatives. Sumith's wife was verbally abused and threatened by the officers. The police officers used defamatory words even against the lawyer who represent the Sumith on many occasions in front of them.

Later, on the instructions of the relatives Sumith's lawyer contacted the relevant police officers at the CID and informed them that Sumith had a fundamental right not to be tortured. After witnessing his condition Sumith's relatives asked the police officers to allow Sumith to get medical treatment. Sumith was detained in the CID office for 6 days from 15 to 22 of August. Throughout the whole period he was not provided the necessary emergency medical treatment by the officers.

He was produced before the Magistrate of Negombo and charged with committing a crime under the provisions of Immigrants and Emigrants Act No. 20 of 1948. He was accused of aiding and abetting illegally emigration. Then he was remanded by the Magistrate and sent to the Remand Prison, Negombo. There he again requested medical treatment from the prison officers but was refused because he did not reveal his condition at the time he was admitted to the prison. Then on 27 August, the lawyer who appeared on his behalf in the Magistrate's Court submitted the facts pertaining to Sumith's medical condition and proceeded for an order for medical treatment. Then the Magistrate ordered the prison authorities to produce Sumith before the Judicial Medical Officers (JMO).

When Sumith was later produced before the JMO he accused Sumith by saying the CID officers did not torture him. But Sumith repeatedly stated that he was tortured by officers attached to the CID. While Sumith was in CID custody he was asked to give details of Indika's whereabouts or request him to surrender. Sumith's lawyer was able to surrender Indika to the CID on 22 August. It was only 10 days before Indika was released on bail from the remand prison after he was arrested in relation with the Australian deportation case.

Sumith's family fear for his life as they are aware of many reported incidents in which persons have been killed in police custody. The lawyer and the relatives of Sumith have made an official complaint to the Human Rights Commission of Sri Lanka (HRC) as well. When the lawyer tried to meet his client for necessary consultations the officers did not allow him to do so informing him that he required special permission from the Director CID. The lawyer then lodged a complaint with the Director CID on the violation of his professional rights as an Attorney-at-Law.

**300. Jesu Andrew: Panwila Police illegally arrested, detained and tortured an innocent civilian**The Asian Human Rights Commission (AHRC) has received information that police officers attached to the Panwila Police station have illegally arrested, detained and tortured an innocent civilian. He was later released on police bail without being produced before a Magistrate.

Mr. Jesu Andrew (28) of Holankanda, Mudulkelle in the district of Kandy is married and his wife is expecting a baby. Andrew is engaged in a small business in the Wattedegama area.

On 23 August 2010 Andrew was returning home from Wattedegama to Mudulkelle by bus. Since there was a crowd Andrew helped a girl in the bus to carry her bag as he knew her previously from his school days.

At Maussa, the bus halted as the road was not passable so the girl collected her bag, got into a three-wheeler and proceeded home while Andrew also returned to his home.

In the evening at around 5pm the girl, along with her family members and police officers from the Panwila Police station came and arrested Andrew saying that he had stolen jewelry from her bag. Andrew was then taken to the Panwila Police station where he was tortured severely by the officers.

First, Andrew was slapped in front of the girl who made the complaint at the moment he was taken to the Police station. Then, he was stripped naked. He was forced to lie down on a bench and was beaten severely with a pole over various parts of his body. The officers also rubbed chilli powder on his genitalia.

While he was being tortured the officers tried to force a confession from him that he had stolen the jewelry. However, when he refused to plead guilty he was thrown into a police cell and beaten again.

On 25 August his uncle arrived at the Police station and offered a bottle of Arrack (liquor) to the police officers to get Andrew released. Subsequently Andrew was released later that day on police bail after having been illegally detained at the Police station since 23 August. Prior to his release he was forced to sign a document written in Sinhala, the contents of which he had no knowledge of, as he cannot read or write Sinhalese. The police officers, when asked, refused to read or explain the document to him. After his release due to the pain in his joints he was treated at Panwila Hospital on 26 August.

**301. Jayasekara Arachchige Roshan Jayasekara: A man is killed after being tortured by the Kiribathgoda police**

The Asian Human Rights Commission (AHRC) has received information that a man who was severely tortured by officers of the Kiribathgoda Police station later succumbed to his injuries. Following his arrest the officers of the Police station turned over his body to the Teaching Hospital of Ragama. Later at the inquest two police officers were identified by a witness as the perpetrators. The policy enforced by the Sri Lankan police of killing suspects after arrest clearly shows the inability of the law enforcement agencies to prosecute criminals within a rule of law system. Anyone arrested by the Sri Lankan police are at severe risk of torture and death at their hands.

According to the information we received Jayasekara Arachchige Roshan Jayasekara, (35) of Ranaviru Niwasa, Morakatiara, Beliaththa was arrested by the Ragama Police station and handed over to the Police station of Kiribathgoda on 25 August 2010.

Jayasekara was arrested due to an allegation made by a group of people of the theft of a mobile phone at the Ragama Railway Station. These Ragama police officers then handed Jayasekara over to the officers of the Kiribathgoda Police station for further investigation.

On 26 August, a newly recruited and therefore inexperienced officer of the Kiribathgoda police brought Jayasekara's body to the Ragama Teaching hospital. He told the hospital staff that he did not wish to be named. The following day Police Constable Dissanayaka (570) of the Kiribathgoda Police station voluntarily registered as the person who handed over the body to the hospital.

The post mortem examination, which was held by the Judicial Medical Officer (JMO) at the Ragama Teaching Hospital, revealed marks of numerous blunt force trauma injuries.

Before the post mortem examination was held the officers of the Kiribathgoda Police station produced a woman who claimed to be an aunt of the deceased to verify the identity of the deceased but the JMO refused to accept her when she was unable to provide specific details. The police officers then produced another woman who claimed to be the deceased's sister who was then accepted. This woman was brought from Belliattha at the expense of the officers.

As the deceased's relatives are unable to afford to take Jayasekara's body to Moraketiara they left it at the mortuary at Ragama Hospital to be buried at the government's expense.

When the inquest into Jayasekara's death was held at the Magistrate's Court of Colombo an identification parade was held and three police officers were produced. Two of them, Percy Dissanayaka and Roy Rathnayaka were identified by a witness as the officers who brought the victim to Tangalle and assaulted him with poles. The witness categorically stated that the victim was in good health before he was arrested by the police officers.

### **302. Dasanayaka Mudiyansele Thushara Jayarathna: Police refuse to conduct investigation into malpractice during the Sri Lanka Law College exam and threaten the life of the complainant**

The Asian Human Rights Commission (AHRC) has received information that a law student Mr. Dasanayaka Mudiyansele Thushara Jayarathna of No: 4/8, Edirisinghe road, Nugegoda, a final year student of the Sri Lanka Law College, has complained to the Keselwatte Police station and other law enforcement agencies of the country regarding a malpractice which occurred at a 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 is now receiving continuous threats to his life. Further, the Registrar of the Law College has contacted him by telephone and threatened him to withdraw his complaint. Neither the complaint about the malpractice at the exam and the threats to Thushara's life have been investigated. The life of this student is in very serious danger and this case is yet another illustration of the extreme nature of the exceptional collapse of the rule of law in the country.

According to the information that the Asian Human Rights Commission has received, on the 3 December, a final year student of the Sri Lanka Law College, Mr. Dasanayaka Mudiyansele 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 principle 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 his 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 at Keselwatte Police station recorded his complaint under the number M.O.B. 81/39. However, to-date no inquiries have taken 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.



Despite having managed to record his complaint at Police Headquarters and by way of an affidavit to the Chief Justice of Sri Lanka and the Registrar of the Supreme Court no action has been taken to initiate any inquiry into the leakage of the paper or to declare the particular paper invalid.

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. He now lives in hiding for fear of his life.

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

### **303. Devarathnam Yogendra: Young Tamil complainant in a bribery case against a police officer faces attempts on his life and is in hiding**

The Asian Human Rights Commission (AHRC) has received information that a complainant of a bribery case (No.: 50600/01 in the Chief Magistrate's Court of Colombo), received death threats from the police officers attached to the Hatton Police station. The complainant made a complaint against the 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 complainant was threatened with his life. Further, the police have filled two fabricated cases against him. One case was settled and concluded and the other is pending. Presently the complainant is in hiding and his life is in danger. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission 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 November 6, 2007 and the police officer was arrested 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 Inspector General of Police and also many other authorities, including the Human Rights Commission of Sri Lanka. Yogendra has also complained that several fabricated charges have been filed, one of which was dismissed by the Magistrate on 11 January, 2011. Another such case is scheduled to be taken up on 1 March, 2011.

Four days after the first case was dismissed by the court Yogendra faced another threat to his life. Following are the details of this incident:

On the 9 December 2007 SI Silva has threatened Yogendra when he was on his way to Hatton from Talawakelle.

On the 1 April 2009 Yogendra was arrested with fabricated charges, produced and remanded until the 21st April 2009. (Case Number: B/296/09) (38152). this case was settled on the 11 January 2011.

Once again Yogendra was arrested on the 1 December 2010 on the charges that he had weapons in his possession. (Case Number: B/902/2010). This case is pending in Hatton Magistrate Court and the next hearing will be on the 1 March 2011.

On 15 January, 2011 on the Thai Pongal day morning around 1.30 a.m. about 5 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 has asked the reason for his arrest, the police officers have said that there is a complaint against Yogendra and they need to question him. Then they have taken Yogendra, walking towards a white van with tinted glasses and pushed him in to the van. It was not a police jeep. It happened to be a rainy day and there was noise of crackers being lighted to celebrate Pongal.

Inside the van he was blindfolded and handcuffed and they have taken him about 200 meters 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 threaten and told that they would kill him if he acted against the police. Yogendra was then assaulted on his shoulders and his body and this stage Yogendra has identified a police officer by the name of sergeant Sarath. Yogendra told him that if he is killed that the whole world will know that the Hatton police officers had done it. Further he told, the police officer "you are Sergeant Sarath and I know you" at this stage 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 have shown 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.

Yogendra has collected 2 bullets casings from the ground and also a rain coat which was thrown out by him while he was in the van to prove that they were from Hatton police.

Yogendra is now afraid to go home and is now in hiding.

This is one more case of a person who is being hunted by the police due to complaints made by him to the Bribery Commission and other authorities. Sugath Nishanta Fernando from Negombo was assassinated 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 station was assassinated 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.

Devarathnam Yogendra is now in hiding, afraid for his life. In a 53 minute taped interview he described to the Asian Human Rights Commission the series of attempts that were allegedly made on his life which he narrowly escaped.

The AHRC calls on the Inspector General of Police and the police authorities as well as the Sri Lanka Human Rights Commission and the National Police Commission to investigate the complaints of Devarathnam Yogendra and also to provide him protection.

### **304. Indika Shashiranga Senevirathna: A complainant was illegally arrested, detained and tortured by officers of the Kiribathgoda Police station**

The Asian Human Rights Commission (AHRC) has received information that 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. Presently the complainant is receiving death threats via phone calls. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to Mallikarachchige Don Indika Shashiranga Senevirathna (25) of No: 286, Temple Road, Dalugangoda, Kalaniya, he is a registered 'substitute post' of Sri Lanka Postal Department.

On 27 October 2010, around 12.30 am, 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 further 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 Officer-in-Charge 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. Further the officers told that the 'Ralahami' (village level state officer or Grama Niladari) treated 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.

Then he was brought inside the Police station. Indika was asked to stay near the front gate of the station. Then another officer came to him and cut the rope which 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 this with two cigarettes. Then police officer noticed that Indika was wearing a holy thread about his wrist and then 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 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 and a non smoker.

One hour later Indika's mother came to the Police station and he told her of how he had been tortured. Further he told that he cannot urinate as the police officers had tortured his penis. Then his mother started to cry. Then she told that he would be released by the morning.

The following morning (27 October) Indika's mother and the 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 Deputy Inspector General (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 27 to 29. Then he was transferred to ward number 63 and discharged only on 12 November. 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 has 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. Further he was also examined by a psychiatrist. While he was in the hospital an Assistant Superintendent of Police (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 has continuously received death threats via his telephone.

He request protection for himself and his family members. He further urged for an investigation of the crimes that happened against him.

### **305. Sudath Pushpakumara: Illegally arrested, detained and tortured by the Beruwala police**

The Asian Human Rights Commission (AHRC) has received information that a man named Samarasinage 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. Instead of investigating crimes in a scientifically accepted manner the police arrest innocents who are tortured

and manhandled into confessing. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

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

First SI Udayanga of the Criminal Investigation Division of the Beruwella police came to the vehicle park at Beruwal Towon around 10.30 am 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. 6,500.00. Then the officer replied that he wanted to go for an official purpose so, then Sudath reduced the fare to Rs 5,500.00. On the way, the car stopped near the house of the Officer-in-Charge (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 hire to Rathnapura. Then SI Sudath told him that they suspect 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. Further SI Udayanga told that he can introduce a fabricated charge of having cannabis (Marijuana), kudu (drugs) or for possession of bombs. He further told Sudath that he can kill him at any time. Then SI Udayanga covered eyes of Sudath tiding a cloth. He was kept like that for the rest half of the day.

At night the cloth was removed and Sudath notice that a group of people have 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 7 November at around 5.30 pm 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 twenty five 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 release he was warned that he could go but he had to be remained silent.

### **306. Suneth Rupersinghe Silva: Illegally arrested and tortured a man while in detention**

The Asian Human Rights Commission (AHRC) has received information that a man named 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. Further 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. It is a regular phenomenon in Sri Lanka that instead of investigating crimes in a scientifically accepted manner the police arrest innocents who are tortured and manhandled into confessing. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

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

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 9.30 pm 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 10 am 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 Officer-in-Charge (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, Identity 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 is 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 the Nivithigala Town by the police officer in the night as he was not able to produce an Identity 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 needs 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. The father arrived shortly after and Suneth was released.

Presently Suneth is in fear of his life and prosecution by the introduction of fabricated charges, of being illegally arrested, detained and tortured by the police officers.

Lindamulage Suneth Rupersinghe Silva demands the protection guaranteed by the Constitution of Sri Lanka and protection for his life.

### **307. Mohammed Amir Sultan : Men and women police officers at Katupotha humiliate a man before torturing him**

The Asian Human Rights Commission (AHRC) has received information that a man named 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 complaining against the police. He was then forced to sign documents prepared by the police (which was not recorded from Amir). Further, the police filled 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. It is a common occurrence in Sri Lanka for the police to arrest innocent persons who are tortured and manhandled to please influential private parties. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

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 1 pm. Amir observe 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 time 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 the others in the jeep.

At the Police station Amir was taken was made sit on the bench. CS Jayawardana told Amir to be ready to go the 'mother-in-law's house' for six month. 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 as such is a person of influence in the area. Janaka handed the knife to Amir handle first 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 bother Rasik into the same room. Then police officer Herath forcefully took Amir's wrist watch, and he searched Amir's pocket and took Rs. 105.00.

Amir's T-shirt was forcefully removed while CS Jayawardana continuously beat him about the face. vest of Amir as well. 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, 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 scolded 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 further threatened him not to fight with the police.

During this time they treated Amir in very humiliating manner. Being a Muslim it was religiously and culturally unacceptable for him to have been forcibly stripped naked, particularly so in front of strangers and women. Due to this Amir suffered great mental anguish.

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, Faseek and Imran to the Katupotha District Hospital. When Amir was produced before the doctor he revealed how he was torture at the hand 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 Kuliypitiya Prison Lock Up and then on 10 October transferred to Wariyapola Prison.

On 20 October he was released on bail and leaned that the case number of the fabricated charge the police filled against him was B/1995/2010. Amir is certain that the police officers filled 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.



### **308. Anthony Ayya Devaraj: Innocent man tortured and put into a leech filled pool by the Matugama Police**

The Asian Human Rights Commission (AHRC) has received information that a man named Mr. Anthony Ayya Devaraj was illegally arrested by police officers attached to the Matugama Police station in the district of Kaluthara. He was primarily 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 filled fabricated charges against him. As Devaraj complaint to higher authorities about the unjust treatment they started to threaten him and he was forced to withdraw his complaints. It is a common occurrence in Sri Lanka for the police to arrest innocent persons who are tortured and manhandled and this case is yet another illustration of the exceptional collapse of the rule of law in the country.

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. On 7 June 2010, around 9 am, he was spreading pesticide over a paddy field where works as a labourer. Two persons came by a motor bicycle in civilian clothes him and ask 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 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 who they accused of distributing illicit liquor.

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

The officers told the two prisoners that there were 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 know 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 know 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 keeping behind his back. While keeping him in the water the officers repeatedly questioned him to reveal the places where the properties 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 the Devaraj and warned him that they will 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 3 pm. Then he was able to reveal to them how he was assaulted.

At around 7 pm 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 filling 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 8 am the police officer who tortured Devaraj came to him and informed him that they are releasing Devaraj but when he appeared before the Magistrate he should plead guilty otherwise they would file many fabricated charges against him. Further he told 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 a community service for Devaraj instead of punishment if he pleaded guilty. Further 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 the 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 finger prints 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 Inspector General of Police (IGP), National Police Commission (NPC), and Senior Superintendent of Police (SSP) Kalutara and to the Human Rights Commission of Sri Lanka. But none of these officers or institutions has made inquiries.

Later 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 withdraws the complaints that he made to the higher authorities. Presently Devaraj is in fear of his life.

### **309. Sunil Shantha: Anguruwathota police tortured with hot chilies on his genitalia to please a private party**

The Asian Human Rights Commission (AHRC) has received information that a man named Mr. Sunil Shantha was illegally arrested by the Anguruwathota police. A non-state agent abducted Sunil 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 shown or informed of any complaint against him and no statement was recorded. In this instance the police have tortured an innocent man to please an influential private party, which the Sri Lankan police do as a common practice. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

Mr. Sunil Shantha (38) of Werawatha; Delgahakanda; Anguruwathota is married and a labourer. He 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 his one of his employer's houses on 18 October, he went to a boutique close by to buy some cigarettes. At the boutique, 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 torture 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. Further he states that the police did not produced 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 Officer-in-Charge 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. In this the officers acted ultra vires in that they had no authority to arrest, detain and mistreat him. It is evident that they were acting on behalf of an influential party.

### **310. Kumarasinghe Appuhami : Tortured and removed him from hospital against the doctor's advice by Police**

The Asian Human Rights Commission (AHRC) has received information that a man, Mr. Karasinghe Arachchilage Kumarasinghe Appuhami (55) 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 District Medical Officer 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 that 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 filled a

fabricated charge against him. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to Mr. Karasinghe Arachchilage Kumarasinghe Appuhami (55) of Temple Road, Wijegiriya, married, a father of 5 and a farmer by profession. He 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 9 am. 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 hold of 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 headless 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. Further they denied that they had tortured him. The doctor informed the officers that they had to wait until the District Medical Officer (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.

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 ward. 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 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 the 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' (The

direct translation is: "we will give you medicine", however, it is 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 sometime Kumarasinghe was taken out from the cell and brought before the Officer-in-Charge (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 7 pm 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 10 am 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 blackguarded him and 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 was 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 get being signed which of course 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 will 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 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 pleased with the OIC not to file cases stating that his two children and the wife were hospitalized and the other his 3 children were in school when he came to the police. He told the OIC that he did not know what will 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, 2 May. 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 the inquiry was held and 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 which was 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 to the ward number 2. The police officers at police post of hospital also recorded a statement from him on 7 May. Then on the same day the Judicial Medical Officer (JMO) examined him and recorded his condition. He was discharge on that day.

Then Kumarasinghe went to the Assistant Superintendent of Police (ASP), Ambilipitya on 11 May and explained the incident to him. Another officer recorded his statement which they got him to sign.

Kumarasinghe made complaints to the Inspector General of Police, Deputy Inspector General (Sabaragamuwa), Senior Superintendent Police (Rathnapura), National Police Commission, Human Rights Commission of Sri Lanka 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.

### **311. P G W G Jayarathna: A police constable pursuing a case against a senior police officer faces death threats**

The Asian Human Rights Commission (AHRC) has received information that a Police Constable (PC) P G W G Jayarathna was tortured by an Inspector of Police which resulted in the perforation of his ear drum. PC Jayarathna was assaulted by Inspector of Police (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. Presently IP Nishantha is attempting to influence the witnesses of the case and making death threats to the victim. The prosecution is being handled by the Vavuniyawa Headquarters Police station and the officers concerned are reluctant to proceed with the case. The life of the victim is in danger. The case is yet another illustration of the exceptional collapse of the rule of law in the country.

P.G.W.G. Jayarathna (37) of number 7/3, Panwatte, Ovilikanda, Matale is married and a police constable (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 6 pm as usual he prepared to light the lantern to the Lord Buddha statue. 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 few junior police officers. Immediately Jayarathna saluted the seniors and approached the jeep with his weapon. He knew the two senior officers, Assistance Superintendent of Police (ASP) Jayantha Athapaththu and Inspector of Police (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 where the officers accompanying him. When he was assaulted it was witnessed by Sergeants Jayarathana and Kularathna who were the assistants of ASP Athapaththu. Further the incident was witnessed by another police officer, Thilakarathna, who also served in number 8 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 worshiped 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 eco on in ear. Also he lost his sense of balance and was not able to stand properly.

Jayarathna called the State Information Centre on 1919 and asked the telephone numbers of Deputy Inspector General (DIG) Vavuniya and Senior Superintendent of Police (SSP) Vavuniya. Though he was able 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 cannot travel unaided. He waited for some time but no one came.

Then Jayarathna went to meet his immediate senior, the Officer-in-Charge (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 the 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 he went to the office of the 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 can go anyplace he wished as he 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 10.55 pm 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 him that there is a perforation to his ear drum (tympanic membrane).

Jayantha then made a complaint to the SSP Vavuniyawa, DIG Vavuniyawa and to the police headquarters. He also made complaint with the Human Rights Commission of Sri Lanka. Then the HQ Police station Vavuniyawa filed a criminal case against the IP Nishantha in the Magistrate 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 ear drum.

The witnesses for the case were all police officers including the seniors and few junior officers. Presently the case is pending.

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

Jayarathna states that if a government officer is found to be inebriated while on duty it should be considered as one of the most serious offences and that officer should be dismissed from service after being found guilty.

Instead of that happening a few weeks later he found that IP Nishantha was promoted and appointed as the Personal Assistant to the Senior Deputy Inspector General (Sabaragamuwa and Uva Provinces). After his appointment Jayarathna observed that police officers attached to the HQ Police station of Vavuniya have shown no interest in proceeding with his case. Further 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. Further he states that his life has been placed in danger by the higher authorities of the police department by their silence and reluctance to take action against IP Nishantha.

Jayarathna further state that he learned that certain steps have been taken to change the order of the HRC decision which was in his favour. Presently Jayarathna is in fear of his life.

### **312. Waharagedara Ranjith Sumangala: Brutally torture and fabricated charges**

The Asian Human Rights Commission (AHRC) has received information that 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 3.5 feet long 2X1 inch pole broke. Later a plastic shopping bag was filled with chili powder and placed over his head and covering his face. Further, 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. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission, 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 motor bikes 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 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 further 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 that one person calling another and stating that they had arrested the man. Then another asked the officer to take the 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 in to its rear and asked 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 he taken from the army and 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 is 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 engage 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 asked to have a bath. He was suffering severe pain due to the assault. Further he noticed that he had urinated defecated in his sarong. Then he washed everything and had a shower as well. However, he had to wear the same clothes. He noticed that 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 set 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 asked 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 that 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 16 December 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 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, this one was 1.5" 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 8 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. Further 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 17 December, all four were brought to an old building within the Mirihana Police station premises. Ranjith indentified that place as the 'Torture Chamber' by listening to the conversation that had taken place at the station. Then they brought to four separate rooms and Ranjith was beaten with a rubber hose. After two hours they were brought back to the station.

Again on 18 December 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 wash room 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 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 7.30 pm 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 5 pm 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 produced Ranjith on 21 December around 9 am 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 3.30 pm 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 panodols. On the 24th Ranjith was brought back to the Magistrate Court and released.

He went to his parent's residence on the same day and was brought to the Basic Hospital, Matale, on the 25th where he was admitted to ward number 13 for treatment. There the Judicial Medical Officer (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 further says that in the Magistrate Court he learned that police have filed four fabricated cases against him.

While he was taking treatments 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. Ranjith states that he never knew about any of these cases.

Presently he is in fear that police will file more fabricated chargers and list him as a notorious criminal and finally extrajudicially kill him.

### **313. Lahiru Ruwan Chamara: Vision-impaired child is tortured by a teacher**

The Asian Human Rights Commission (AHRC) has received information that a 13-year-old school child, Amuwaththe Mudiyansele Lahiru Ruwan Chamara of R/Galagama Vidyalaya in Belihul Oya in the Rathnapura District, was tortured by a teacher. The child suffers from a rare affliction known as keratoconus and has undergone 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 Samanawewa Police they are reluctant to proceed with the case. The educational authorities and the Human Rights Commission have also not shown any interest to proceed with the case due to the influence of certain parties. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information that the Asian Human Rights Commission has received, Amuwaththe Mudiyansele Lahiru Ruwan Chamara (13) a school child and the son of Mrs. Rathnayaka Mudiyansele 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 medications 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 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 parent's care they were advised to pay extraordinary care and attention to the child. They further advised them to protect his eyes from dust and not to allow 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 they 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 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 class room 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 principle 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 at hospital advised them to admit the child for the treatment. Lahiru was treated in Balangoda Hospital for one day and discharged on 11 July 2009.

Then as neither the principle nor any of her representatives took any action on 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.

Further 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 the fellow teachers, principle and some relatives of the teacher, Ms. Kanthi Pathirana. The privileged people and the influence of political authorities in the area are believed to be behind this harassment.

Lahiru's parents continuously seek justice from the authorities at the Education Department but nothing has been done so far. According to the disciplinary code of Establishment Code all the state officers are subject to disciplinary inquiries on committing the offence indicated in the second schedule of the Establishment Code. Torturing a child has been criminalize in Sri Lankan law and the it has been considered as grave misconduct which can lead to the dismissal of state officers from his or her service. Although Ms Kanthi Pathirana being a teacher has committed a crime and offence under the both these laws of the country and state service still the victim child Lahiru and his family members have to face all this harassment.

Finally his parents decided to complain to the Human Rights Commission on the violation of Lahiru's fundamental rights, which are 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. They further realized that they could not get the justice they seek from the HRCSL. Then they went and complained to the legal officer at the HRC about the situation. Though the legal officer accepted the complaint, still nothing has 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 Officer-in-Charge (OIC) of the station insisted that the parents settle the matter, which they refused as it was a case of torture, and even the court cannot mediate in those cases. Then the case was referred to the Mediation Board.

Later, the parents learned that the police had filed case in the Magistrate Court of Balangoda in a criminal case base on the complaint. Then they were informed that the case has been laid down to

seek the advice of the Attorney General. Lahiru's family waited, but still it seems that nothing will happen.

A child with a disability, Lahiru, was subjected to torture and ill treatment. Though his parents have made several complaints and he has had to undergo harassment, no justice has been received.

Presently, Lahiru is refusing to go to school. Lahiru complained that many of his fellow students are not associating with him now. Further, he complained that many teachers are discriminating against him.

A few months ago there was a newspaper report published 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 principle called a School Development Association meeting and discussed the matter and finally they also accepted that punishing the student was legal and did not clearly mention that physical and mental torture is illegal. This discussion implicitly recommended the physical and mental torture.

Further, Lahiru and his parents are being threatened to leave the school, which is obviously a violation of their rights to work and Lahiru's right to receive an education.

#### **314. Sampath Jasingha : Beaten and his nose is fractured by a drunken police officer**

The Asian Human Rights Commission (AHRC) has received information that Mr. Kapila Sampath Jasingha (28), a fruit seller at the Public Market in Chillaw was tortured by two drunken police officers attached to the Chillaw police station. The officers bashed 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. Since then the police officers have 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 details of which are still not known to the victim. 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. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission, 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 the 23 January, 2011 Sampath was running his fruit stall in the front part of the Public Market of Chillaw. 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 3.30 pm two persons, who were both drunk, in civilian clothes came to the stall and ordered Charith to remove the fruit stall. Then Charith informed the men that the stall belonged to Sampath and called him on his mobile phone. Soon after, Sampath came to his fruit stall by his three wheeler bearing number NW-OF 5716. 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 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. Sampath again explained that he is the owner of the stall and his name is Kapila Sampath. The man further asked whether Sampath had permission to run a fruit stall whereupon Sampath explained that he had been running his fruit stall for many years legally.

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. Further one of the officers, who appeared to be in a state of extreme inebriation, shouted that he was police officer Senarath of the Chillaw Police (later identified as PN Senarath (54808)).

Sampath told the officer that 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 behavior 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. Further 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 bashed his head against the gate post 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 5 pm 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 7.30 pm two police officers along with the police officer Senarath brought him to the Base Hospital of Chillaw. When the police officers referred Sampath to the doctor at the Out Door Patient Department doctor he specifically asked whether Sampath has taken liquor. Sampath clearly told the doctor that he had not taken liquor and he explained how he was tortured by the police

officers. Further he explained the doctor that the police officer responsible, Senarath, was drunk at the time of the assault. But the doctor did not make any attempt to consider this.

Further Sampath showed the doctor that he is 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. He was admitted to ward number 4 of the hospital for treatment.

Sampath was X-rayed and transferred to the ward 7. Later two police officers came to the bed and guarded him. Later on 24 January the officers went away. Then Sampath learned that his friends and relatives had sign for a surety and the police had released Sampath.

However, Sampath was later asked to appear before the Magistrate's Court of Chillaw on 9 February for a case B/R/71/2011. Sampath was discharged from the hospital on 26 of January. While he was in the hospital, the doctors informed him that his nose has been fractured due to the assault of the police officer.

On 27 January 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. Sampath 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. Sampath made a complaint to the Human Rights Commission regarding the violation of his fundamental rights guaranteed to him by the constitution of the country. Sampath categorically states that he has not committed or attempted to commit any crime. But he presently in fear of the police filing fabricated cases against him as he did not agree to the request of police officers not to proceed against Officer PN Senarath.

### **315. A daughter of Mohammad Mulafar and Siththi Farina : Victim of rape and her family live in fear due to influence of the suspect**

The Asian Human Rights Commission (AHRC) has received information that 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 Judicial Medical Officers also examined the child. Powerful people behind the suspect are trying to suppress justice by making a fabricated charge against the child for theft. After making a complaint against the suspect who was clearly identified by the virtual complainant, the parents and the victim child 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. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

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 9-years-old. 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. They are the only Muslim family living in Mowbray estate.

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 her 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 5, twenty rupee notes. Further she was threatened that she will be killed if she revealed to anyone what happened to her. Further she was forced to bathe and wash her clothes.

A few hours later, the girl went to a boutique which is 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 8 pm 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 ward 7 of the hospital until the 7 October. Before she was discharged the Judicial Medical Officer (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 7 October. 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 as he is wealthy and an entrepreneur owning two business 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 child. 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 pursue this case. The parents made a complaint to the Peradeniya Police station regarding the incident on the 8 October. Police recorded the complaint under reference No. CIB 390/210.

However, the police did not investigate the complaint of threats and presently the virtual complainant and the witnesses of the case are in fear of their lives.

According to the parents the suspect was accused of raping another 14 year Tamil girl, living in the same estate on the 14 October. Though the case was reported to the Police station of Peradeniya still police have not taken appropriate steps either arrest the suspect or take the necessary legal action against him. The residents of the estate and the victim of the case believed that this is due to the malpractice and the bribe.

Furthermore, the parents fear that the medical report pertaining to the case would be changed due to the influence of the suspect as it has not yet been submitted to the court.

The parents of the victim are pleading for protection for themselves and their children. Further they are seeking speeding justice as this alone will alleviate the threat and danger to the child and her family.

### **316. Sampath Kumara: A man severely tortured by Pamunugama Police**

The Asian Human Rights Commission (AHRC) has received information that Mr. Herath Mudiyansele Suranji Sampath Kumara (35), the driver of a three-wheeler vehicle was severely tortured by three police officers, including the Sub-Inspector of Police, 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 the victim to add credibility to his arrest. 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. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to information received by the Asian Human Rights Commission, 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 1st February 2011, Mr. Sampath was at home and at around 7:30 pm, 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 threw 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 Sub-Inspector (SI) 20293 and other officers attached to the Pamunugama Police station.

Whilst beating Mr. Sampath, the two men dragged him about 700 meters 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.

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 Assistant Superintendent of Police (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 Judicial Medical Officer (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.

### **317. A daughter of Kandiah Mahendra and Manori Chamini Perera : Victim of rape continuously denied justice now lives in fear**

The Asian Human Rights Commission (AHRC) has received information that a 10 year-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 8 days. Though the case was referred to the Nawalapitiya Police by hospital authorities and the victim and the eye whiteness provided sufficient information for an arrest, the police are reluctant to investigate the case and arrest the suspect. No judicial proceeding has started yet and the victim and witness live in fear of their lives. The education of the victim is in danger as the suspect is seen coming to the gates of the school to intimidate the child. The suspect is obviously influencing the police and there is a very real fear that justice will once again be denied to the victim. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information that the Asian Human Rights Commission has received 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. Mr. Mahendra has travelled to Bangladesh for work.

Anoma (not her real name), is studying in year 10 at a reputed girl's school in the district. She is clever and a brilliant student.

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 11.30 am. 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.

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 further 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 at ward 4 for 8 days.

The hospital authorities informed the Nawalapitiya Police station and officers came to the hospital and visited the house at around 10 pm. 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 eye witness 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. Monari categorically states that that the virtual complainant of the case, the eye witness and she herself have provided enough credible information on the identification of the suspect to the police. She further stated that the suspect was a resident of the house where she was helping with the almsgiving.

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

Mrs. Manori believes that the suspect came to the school when her victim daughter was there with the intention of causing further harm to the child. She further states that her daughter and the witness are now exposed to danger as the police officers are not implementing the law. She says that the victim and the witness should be provided with protection and the case should be referred to the Magistrate's Court so that the learned Magistrate can be made aware of the situation, especially the danger posed to the victim and the witness.

The victim and her family members appeal to the Inspector General of Police (IGP) to make the necessary order to investigate the complaint in this regard; arrest the suspect and produce him before court.

When the police as a law enforcement agency of the country fail to carry out impartial investigations into an incident and take the culprit before the law it curtails the rights of the victims for redress.

### **318. Suthisa Kumara Jayalath and Mahendra Uppalawanna : beaten in public by drunken police officers**

The Asian Human Rights Commission (AHRC) has received information that Mr. D G Suthisa Kumara Jayalath (25) and Mr. W V Mahendra Uppalawanna (18) of Pahalawela, Pareigama, Via Matugama were illegally arrested and severely tortured 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. The two men are now in fear of their lives as all the statutory bodies (the Human Rights Commission and the National Police Commission) and senior police officers are silent on the complaint. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission, 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 tortured by police officers attached to the Welipanna Police station.

On 20 May 2010 around 11.45 am 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 to the two arrests the officers, contrary to the law, did not reveal any reason for their action. Mahendra indentified 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 getting 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 which was located in close proximity to the place where he was tortured. They witnessed the cruelty and arrogance of the police officers as they deliberately tortured Mahendra in public. When Mahendra asked the officers for the reason they were beating him one officer told that him that this was not torture. "We will torture you to remember the mother who fed you milk when we take 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 brought by the police officers as he was bleeding from the mouth. Then he understood that Suthisa had also have been tortured by the police officers.

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 boutique 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 motor bicycle 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 not reveal the truth he would have to faced severe consequences. An officer tied his wrists with a sock and suspended him from s 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. Further 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 was hung by the wrists.

The officers who brought Mahendra back to the cell informed the 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. Further in that document it was noted PS 28019 as the arresting officer.

On the next day all the detainees at the cell were brought out and released on bail. Though Mahendra and Suthisa was brought out later by the officers as they were reluctant to release saying that they (the officers) would be in big trouble with the Officer-in-Charge (OIC) if he found out what had happened. Both of them were locked up again. Several times on 20 and 21 the relatives of the victims came to visit them at the station. Finally in the evening the two detainees were released.

On 22 Mahendra and Suthisa were admitted to the Iththepana Government Hospital. But as their condition was serious both of them were transferred to the Nagoda General Hospital. Mahendra was admitted to ward No: 11 while Suthisa was admitted to ward 8.

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

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

Later on 17 July Suthisa complained to the Assistant Superintendent of Police (ASP) of the area regarding the incident. But no investigation has been held on that yet. Then on 13 September a Member of Local Government Body (Pradesheeya Saba), Mr. Janaka Kumara Gunasekara came to Suthisa and asked him to come to the Police station on 15 September with him to talk about the matter with police officers. Suthisa refused. Then Suthisa and Mahendra complained to the National Police Commission (NPC) and to the Human Rights Commission and to the ASP.

Mahendra and Suthisa state that they were illegally and arbitrary arrested by the police officers and detained. Further they state that they were physically and mentally tortured severely in public. Further they state that they are continuously receiving threats from police officers.

The Local Government Councilors even as the people's representatives are trying to suppress justice and helping to provide impunity while representing the police officers.

Further Mahendra and Suthisa desperately state that the senior officers in the police department, the NPC and HRC have not carried out their statutory duties to investigate their complaints or provide protection or justice to them. Suthisa and Mahendra are presently in fear of their lives and are still seeking justice and protection.

### **319. Suranjiv Chrishantha Fernando: A young man is illegally arrested, detained and held in prolonged detention for two and half years**

The Asian Human Rights Commission (AHRC) has received information that Mr. Suranjiv Chrishantha Fernando (21) of Elkaduwa Estate, Elkaduwa in Matale district was illegally arrested and severely tortured by the police officers attached to the Terrorist Investigation Division 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 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 Courts with fabricated cases. To date the cases are still pending and the victim is waiting to prove his innocence. Due to undue delays in court proceedings the victim continues to suffer in prison. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information the Asian Human Rights Commission has received 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 the country.

Chrishantha's father, Mr. David Fernando is employed in a civil society organization in the district and his mother is working as a child development officer of the Elkaduwa estate. Chrishantha has two elder brothers, one is a teacher by profession and the other one migrated abroad for work. Chrishantha also wishes to go abroad for employment.

At the time of arrest of Chrishantha was running a communication shop in Ratwatte Laliambe close to Ukuwela. As a young man Chrishantha wanted to establish a good life and wanted to earn more for his future. Even though he was able to run the communication shop he decided to migrate following in his elder brother's footsteps to better his life.

When was trying to find an agency to arrange an employment opportunity 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 Terrorist Investigation Division (TID) of Kandy Police came to his house at around 9.30 am. At that time Chrishantha's parents were not at home.

First the officers asked for the elder brother who is the teacher, then the officers asked for Chrishantha. Chrishantha was arrested by the officers who did not give any reason for his arrest. 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 Mr. David, 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 2 pm 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 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 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 for 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 visa for his employment in Malaysia. He totally denied all the accusations. Eventually he was forced to accept and sign documents which were prepared by the officers of TID but he denied the contents. Chrishantha states that he vehemently denied and was totally unaware of the charges made against him.

On the 2 May 2009, he was produced in Magistrate Court Teldeniya for the case of B/398/2008, Magistrate Court of Matale for the case of B/954/2008 and Magistrate 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 is still detained in Bogambara remand prison and has been there for a period of more than two and a half years. He states that none of these cases have been taken up for trial by the courts. Chrishantha states that he has been denied his right to prove his innocence before the courts as the prosecution is delaying the filing of the charge sheet and the necessary legal steps. He states



that he was illegally arrested, detained, severely tortured and not treated equally before the law. Further he claims that his right to have a fair trial and right to be regarded as innocent until proven guilty was denied as he was tortured and subjected to prolonged detention without being granted bail.

### **320. A daughter of Yamange Hemalatha: OIC forced disabled rape victim to accept Rs. 10,000 in settlement**

The Asian Human Rights Commission (AHRC) has received information that a 23-year-old physically and mentally disabled woman was raped by a neighbour. 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 Officer-in-Charge (OIC) threatened and forced the mother to accept Rs. 10,000.00 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. Further the OIC forced the mother sign a entry prepared by him in a 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 Inspector General of Police and the other senior police officers, however, no investigations have yet been initiated. When the victim's father learned of what had happened he went to the Police station and handed over the money to some police officers who accepted it. The suspect remains free. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission, Mrs. Yamange Hemalatha (50) of Akkara 33, Weligodella, Bombuwala is married and a mother of two children. Her husband is a shoe maker and self employed.

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 wheel chair bound. Further she is mentally retarded and requires constant supervision as she is unable to tend to her bodily functions and needs and drools more or less constantly. She is able to speak with difficulty but has little concentration.

On 31 January 2011 Hemalatha's husband and her other child left for works and Hemalatha went to assist with the alms giving 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. There was another reason as to why Chandani was able to identify the rapist as he had come to the house a few days earlier to use the services of her Hemalatha's husband for shoe making.

Hemalatha observed that the victim child was in severe pain condition 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 immediate following 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 parent to leave the station.

Then the father-in-law of the suspect rapist Mr. Preme arrived at their house at around 11.30 am on 2 February and conveyed the message that Hemalatha and her family members had to appear before the Officer-In-Charge (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 11.30 am which was the same time that she had to appear before the OIC. Further, 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 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 for an innocent victim. 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 to proceed against the suspect, saying that he wanted justice for his child.

It is to be noted that at no time did the police officers direct Hemalatha or her husband to take the victim to a hospital. Further, the police officers have not taken any of the 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 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 ward number 10 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 states that the OIC of the Dodangoda Police station did not proceed legally with her complaint. She further said that OIC of the station worked illegally by arranging and forcing her to settle a case of criminal rape which is an uncompoundable offence under the law. In Sri Lankan law police officers have the leeway to settle certain complaints with the agreement of the parties. This would include personal disputes and such however, criminal cases such as attempted murder, murder and rape do not come under this schedule.

Hemalatha further says that as she belongs to a poor and marginalised group of society the OIC wanted to enforce the law in a discriminatory manner. Further she states that she believes that the OIC suppressed the law as he was given bribes. Also she goes on to say that that the police officers are legally bound to issue a Medico Legal Examination Form (MLEF) to the complainant of rape or to the victim who were subjected to the 'crimes against the human body'. But the OIC and the police officers of the Dodangoda Police station did not treat Chandani equally before the law and acted ultra vires in that regard.

She strongly states that according to the law the OIC of any Police station is legally bound to investigate the complaint of crimes and report those to the Magistrate Court for determination of the Magistrate to proceed with law for the conviction of the criminal if found guilty at a High Court. Further she states that the OIC is the determining and guiding officers in law for the investigation of these kinds of complaints and it is his responsibility to contact the Judicial Medical Officers (JMO) for the medical evidence of the victim as well as the suspect. It is the responsibility of the OIC to collect the evidence produced relating to the crime and produce these productions with the necessary securities to the Magistrate's Court and then to the Government Analyst when necessary. Hemalatha states that the OIC and the other officers of Dodangoda Police station intentionally suppressed and ignored the whole procedure of the criminal justice system to help the suspect and deny justice to her and her victim child.

Finally Hemalatha states that being a disable woman, her child should have been treated with special care and attention by the law enforcement officers.

Hemalatha made complaints to the Inspector General of Police (IGP), the Senior Superintendent of Police (SSP) Kaluthara, The OIC of the Women and Child Care Bureau and the Human Rights Commission of Sri Lanka (HRC) for the investigation of her complaint and to provide her with justice. However, to date, none of these officers or authorities have taken any steps to uphold justice.

Now Hemalatha and her family members are presently in fear of their lives as they complained to the higher authorities thereby ignoring the threat of the OIC not to reveal the crime. Hemalatha is therefore seeking protection for herself and all her family members as they may be considered witnesses of the crime.

### **321. Lahiru Madushan Suriarachchi: A student tortured by his school principal**

The Asian Human Rights Commission (AHRC) has received information that a 16 year-old school child, Lahiru Madushan Suriarachchi of Horana Royal College was ill-treated by the principal of his school. The child had his cut his hair and was beaten severely by the principal. When the 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 are not implementing the law against the perpetrator who instead has been promoted to the Ministry of Education. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission 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 was one of the brilliant students who performed well from his education. Further he was one of the students who won the Island wide National Competition in Dancing. Then he was called for a stage exhibition held at the Zonal Educational Office also. From his early childhood neither teachers or students had made any complaint against Lahiru at any time.

Also Lahiru's mother was one of the most active parents in the school. She trained the primary students for sports for several years voluntarily.

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

Lahiru was afraid and the principle continuously questioned Lahiru. Then without warning he started to cane him demanding that he tell the truth. After that the principle 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. Nuwan belonged to a poor family and he had lost his father. Further his mother lived with enormous economic difficulties after the death of her husband to earn a living for her three children. Lahiru did not want to cause trouble for him.

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 principle 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. Also 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 the parent to the school.

As the hair of Lahiru was cut unevenly he felt shame to go out in public so he borrowed a hat from a school friend and went home. At the home he informed the incident to the mother.

The next day the mother and father along with Lahiru went to the Zonal Education Office at Horana and saw the Director of Education. Immediately after they entered to the Director's officer the director identified Lahiru and praised his talents and skills. The director told them that he still remembered his talent where she observed the exhibition held after winning the Island Wide National Competition. Then she asked for the reason for their visit to the office. The parents showed the marks of contusions and how Lahiru's hair had been cut. They noticed that the director was shocked.

Then immediately the director telephoned to the principal of Horana Royal College and inquired about the incident. After completing the call the director informed the Lahiru and his parent that the principal had tortured him in the best interests of the child. So he advised the parent just to accept what had happened. Further she told that we have to accept the side of ship after it turns over in the water. The parents of Lahiru were frustrated and came home after handing over the written complaint to the director.

As the parent desperately wanted to continue with his education one week later on 18 March the parents went to the school. Then the principal asked only the parent to come inside his office. When they went 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. Further he told that as that school is a National School it is only the Ministry of Education of Central Education that can make orders and the Director of Zonal Education Office who can make interventions. 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 has experienced continuous pain. Further on some occasions he experiences 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 a Medico Legal Examination Form (MLEF) and asked them immediately to go to a hospital for treatment.

Lahiru was brought to the Horana Government Hospital on 1 April where he was admitted for further treatment. The Assistant Judicial Medical Officer also examined him. The doctors, considering the severity of the injuries 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. Lahiru is still getting treatment for this damage.

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 parent learned that the wife of the principal of Horana Royal College is also working there and they believe that the assault was arranged by Lahiru's former principal.

He 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 also 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 is 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 Horan 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 for file the case in Magistrate Court. Still the parents are waiting for justice as the police have not yet filed a criminal case against the perpetrator.

The parent complained to the Inspector General of Police, National Police Commission and to the Human Rights Commission of Sri Lanka on this matter but none of these institutions have initiated investigations on this regard.

Lahiru and his parent states that the educational authorities and the police department are intentionally neglecting their duty to investigate the crimes. Further, the authorities are intentionally working to protect the perpetrator while denying justice to them. Further the parent state that it is the duty of the Officer-in-Charge (OIC) of the Horana Police station to file a criminal case in Magistrate Court and seek the order of Magistrate to refer the case with necessary evidence to the Attorney General to proceed to file an indictment following the provision of the Convention Against Torture and other Inhuman and Degrading Punishment Act No 22 of 1994 (the CAT Act).

Amongst all these accusations a few days ago, the principal of Horana Royal College was promoted to the Ministry of Education by the educational authorities. The parents of Lahiru state that they were denied justice and the perpetrators were promoted while the state worked to encourage impunity.

The right to education of Lahiru was blatantly violated by the state authorities who did not take any steps to uphold his rights irrespective of continued appeals made by them.

### **322. Ruwan Niroshana: a young man beaten brutally and laid with fabricated charges**

The Asian Human Rights Commission (AHRC) has received information that 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 Baracks 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 ten separate injuries and referred him for further psychiatric treatment. When the victim filed a fundamental rights violation application at the Supreme Court the Attorney General 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. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission Mr. Egodawattege Ruwan Niroshana (18) of Urugoda Road, Ellekanda, Welipenna is an agrarian labourer by profession.

Niroshana 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 and two were fabricated cases filed by the Officers-in-Charge (OIC) of the Welipenna police station. The Attorney-at-Law pleaded guilty on his behalf, telling Niroshana to summarily 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. He was considered as an innocent and down to earth villager who is willing to help anyone in the village. On many occasions it was Niroshana who intervened and helped his fellow villagers in difficult hard jobs some of which involved jobs which were distasteful.

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 the following morning. His mother came home at around 9pm and stayed with him.

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 wheel 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 assaulted 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 Baracks 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 hose pipe. 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 entire night he was at his home with his mother and the other members of his family. Further 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 25 May. His mother and the others affirmed that Niroshana was, in fact, with them for whole night.

Niroshana was detained in the police station from 26 to 29 May. On each day he was tortured by the police officers in similar manner. On 27 officers brought him to the back of the Police station where they aimed a high pressure hose pipe at him. This was extremely painful and even then Niroshana was surprised about 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 names of the police officers who tortured him as Police Assistant Gamini, Police Constable Bandara and Police Constable 82100. Further 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. Further 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 27 in the early morning 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. Further he learned that an Attorney-at-Law also visited the Police station and met the OIC but he was given any indication as to when they would either release Niroshana or produce him in court. Then again on 28 May 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 29 May.

On that day the police officers forced Niroshana to sign a document that was prepared by them and which was not recorded from him. Further 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 will 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 on Niroshana the learned Magistrate released him on personal bail.

On the same day Niroshana learned that his mother had complained to the Human Rights Commission (HRC) also 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 Judicial Medical Officer (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 states that the even this JMO was working in collaboration with the police officers.

Later on 2 June 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 4 June.

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 ten marks of injuries due to the police torture. Further, 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 Attorney General (AG) vehemently opposed Niroshana's application. Niroshana states that the AG of Sri Lanka, as was the policy during the past did not oppose the applications concerning torture where there was enough credible evidence of torture. The AG followed the policy of the State of Sri Lanka which adopted a zero policy on torture and so that his department would not appear on behalf of torture perpetrators.

But when Niroshana's application was supported AG neglected and throws that policy away and opposes his application. Niroshana states that he leaned in many resent cases the AG presently adopted this new policy of opposing the individual applications of torture victims in courts. Further Niroshana states on this occasion the AG wanted to protect the torture perpetrators and support their impunity in the country. Further he states that the AG did not properly stand up to his duty which was to indict and prosecute the perpetrators under the provision of the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994.

Niroshana appeals to all the national and international authorities to take all possible steps to protect his rights and all possible measures to provide justice against the suspect police officers.

Further Nisoshan state the doctors who examined him at Government Hospital of Iththapana (later identified Dr. W G Chandralatha) and General Hospital of Nagoda neglected their duty as doctors and worked in collaboration with the police officers in his case.

### **323. Acharige Dinesh Priyankara: A man brutally torture by police in revenge for complaining to the Human Rights Commission**

The Asian Human Rights Commission (AHRC) has received information that Mr. Alahendra Acharige Dinesh Priyankara of Panadura North Police Division in Kaluthara district 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 which happened in a newly constructed luxury house belonging to a former Deputy Inspector General (DIG) of police. He revealed all the facts he knew and pleaded innocent following which he was brutally tortured by the Officer-in Charge 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 District Medical Officer (DMO) was ordered to send the medical report on his condition. The victim's mother complained to the Human Rights Commission (HRC) on the violation of her son's fundamental rights. This case is yet another illustration of the exceptional collapse of the rule of law in the country.

According to the information received by the Asian Human Rights Commission, 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 Inspector General of Police. 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 has 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. Further 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. Further he told the officers that he can 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 side of the Police station where again he was assaulted. Dinesh told the officers that usually he is being called for hires by the officers and the workers of that said DIG's site. Further Dinesh explained that a man called Danushka told him that he is transporting these tiles from one site to another as they belong to him. That was the reason to go for that hire.

Then he was again brought to the office of the Officer-in-Charge (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. They were 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 further 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 are not the tiles that were stolen.

Without considering their refusal of identity of the tiles the OIC ordered to take Dinesh into the jeep. Then the officers drove the jeep to the Nugegoda along with Dinesh. Dinesh was brought to a site where he noted that a few officers 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 officers asked him to go to the rear sheet of the jeep. Then officers went and arrested the Danushka as well. Then officers drove back to the Police station again.

At the Police station Dinesh was again locked Dinesh up in cell and Danushka was brought to the back side of the Police station where Dinesh was beaten earlier occasion. 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 have come to the Police station. Further he noted that officers chased away her 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. Dinesh noted that few officers of the DIG's company were sitting with OIC. One officer of the company was seated on the chair of the OIC. The OIC

who wore two stars on his epaulets was seated next to him. Dinesh noted that the station officers were drunk and that the company men were treated 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 hire 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 Human Rights Commission (HRC) to make complaint against police officers. He further 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 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 from 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 and asked him to get up. The OIC again tried to force Dinesh to accept the crime which Dinesh again refused.

Then one officer asked 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 finger print to the document.

Then Dinesh was told that now the officers can 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 asked 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 him a Medical Report on his condition.

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

Dinesh stated that police tortured him at the whim and fancy of the former Deputy Inspector General (DIG) of Police who was building a massive house at the bank of Bolgoda River in the same area.

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