



General Assembly

Distr.: General
22 February 2024

English only

Human Rights Council

Fifty-fifth session

26 February–5 April 2024

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students), a non- governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 February 2024]

* Issued as received, in the language of submission only.



Sri Lanka – Torture, Custodial and Encounter Deaths

Background

1. In recent years, the deaths of suspects while in custody and during operations by Sri Lankan Police to apprehend suspects have become common. The Human Rights Commission of Sri Lanka (HRCSL) noted 24 custodial deaths and 13 encounter deaths involving the police during the period from January 2020 to August 2023 (1).
2. In September 2020, police reported threats made by a detainee named Mr. Janith Madushanka, alias Podi Lassie, to another detainee named Mr. Tharaka Perera, alias Kosgoda Tharaka, to Galle Magistrate Court. Mr. Perera was subsequently shot dead by the police in May 2021, despite the then President of the Bar Association of Sri Lanka (BASL) informing the Inspector General of Police about an imminent threat against him the previous night (2).
3. On 11 May 2021, Mr. Mabulage Dinith Melon Mabula alias Uru Juwa, who was in remand prison with Podi Lassie in Boossa prison, was also shot dead by the police (3). He had given statements to the police that he had not heard Podi Lassie making threats to anyone, as alleged by prison officials.
4. In November 2021, another person, known as Mr. Tinkering Lasantha, was killed in police custody despite appeals from the then President of BASL, the HRCSL, and a Governor who is a presidential appointee (4).
5. On 9 December 2021, three United Nations (UN) Special Rapporteurs of the UN Human Rights Council sent a communication to the Sri Lankan government (5) about death threats to Podi Lassie, and we believe it may have contributed to ensuring his safety.

Situation in 2023

6. The HRCSL, in a letter addressed to the Attorney General on 21 December 2023 (6), stated that the "Commission's head office in Colombo received over 200 complaints concerning torture in 2023". The HRCSL had also noted the prevalence of custodial and encounter deaths involving Sri Lanka Police and that the HRCSL received complaints on a total of six custodial deaths and two encounter deaths that took place during the first six months of 2023. These were caused during operations aimed at locating weapons or narcotics and amounted to cruel, inhuman, or degrading treatment due to the negligence or omission of the officers on duty.
7. The UN Office of the High Commissioner for Human Rights, in its report on Sri Lanka to the 54th session of the UN Human Rights Council, had noted: "new cases of deaths in custody or during encounters with law enforcement officers as reported in previous updates" (7).

Supreme Court Judgment Holding Acting Police Chief Responsible for Torture

8. On 14 December 2023, the Supreme Court delivered a historic judgment (8), holding Acting Inspector General of Police (IGP) Deshabandu Tennakoon personally responsible for torture. The Supreme Court had noted that Mr. Tennakoon had ordered the investigation that led to torture and other rights violations and that he had intimate knowledge of the investigation during which police officers under Mr. Tennakoon had tortured several persons.

9. The court found that Mr. Tennakoon had personally visited the persons detained in the “torture chamber” for “brief sessions of torture”. It noted an affidavit from a victim that Mr. Tennakoon had “beat the Petitioner with a ‘three-wheel rubber band’ after stripping him naked and ordering him to rub Siddhalepa on his genitalia”. The Supreme Court had also found Mr. Tennakoon guilty of violating other constitutional rights and that Mr. Tennakoon had “enabled, through his actions as well as inaction”, three other junior police officers to violate constitutionally guaranteed fundamental rights.
10. The court emphasized the complicity of senior officials (such as Mr. Tennakoon) through the following words, “The big fish in the pond are seldom held duly accountable. Senior officers, under whose authority and direction their subordinates may act, have a special duty to ensure that they do not abuse such authority or go beyond such direction. Senior officers cannot merely give orders and leave it at that. They are to scrutinize the conduct of their subordinates closely. The stars that adorn their uniforms are not ornaments of power but rather reminders of the immense responsibility that comes with their authority. Gross neglect of this duty would render them complicit in the actions of their unruly subordinates (9).”
11. Regrettably, a representative of the Attorney General (AG) appeared on behalf of Mr. Tennakoon in this case, which would lead to a perception of a real conflict of interest, as it is the same AG’s office that may have to prosecute him based on findings of the Supreme Court and in other cases where Mr. Tennakoon is a suspect.
12. Before this judgment, there have been reports (10) of Mr. Tennakoon being complicit in attacking peaceful protests, making death threats to a journalist, threatening and wrongfully arresting police officers, interfering with police officers carrying out their duties, obstructing investigations, and abusing state resources and privileges associated with his position. Serious human rights violations and crimes have occurred under his watch as a senior police officer, including Easter Sunday Attacks, a series of custodial and encounter deaths involving the police, and violations of COVID-19 regulations. Mr. Tennakoon has also been accused of failing to comply with orders of the National Authority for the Protection of Victims of Crimes and Witnesses, which shall amount to contempt of the Authority and shall be punishable by the Supreme Court as an offense against the authority of the court (11).

Case Studies of Police Killings in 2023

13. Mr. A.G.S. Preethi Kumara. On 10 January 2023, Mr. Kumara was apprehended by the Police Narcotic Bureau (PNB) in Narahenpita (Colombo District) and died while in their custody. On 12 January 2023, the Forensic report by Judicial Medical Officer Dr. Ajith Tennakoon affirmed that the victim had suffered injuries over his back, buttocks, limbs, and head and that the injuries consisted of “intentional violence” and “accidental nature could be excluded.” Considering the post-mortem report and other Magisterial processes, the Maligakanda Magistrate had concluded hemorrhagic shock and multiple soft tissue injuries due to beating by a blunt weapon were causes of death (Case no. B/1360/23 Maligakanda Magistrate Court). Seven police officers were arrested.
14. Mrs. R. Rajkumari. Mrs. Rajkumari was arrested on 11 May 2023 based on a complaint filed by her employer that she had stolen gold jewelry belonging to her employer. Mrs. Rajkumari died while in the custody of the police. Based on the finding of the Forensic report bearing no 22727/RS/RS dated 1 June 2023 by Judicial Medical Officer Ravindra Samaranayaka. Colombo Additional Magistrate Harshana Kekunuwala ruled the cause of death as hemorrhagic shock caused by damage to the muscles of the deceased after being assaulted with a blunt weapon or similar force. The Magistrate ordered the suspects responsible for Mrs. Rajakumari’s death to be arrested (Case no. B/91776/04/23, Colombo Chief Magistrate Court). Four police officers were arrested.

15. Mr. Jeyarasa Alex. On 19 November 2023, Mr. Alex, 26 years old, was brought dead to the Jaffna Teaching Hospital from prison. There were injuries, abrasions, and contusions in different parts of his body, suggesting that the death was due to unnatural reasons. He had been arrested by Vaddukoddai Police on suspicion of burglary and remanded by the Mallakam Magistrate's order. The family had alleged he was tortured while in the custody of the Vaddukoddai Police. (Case no. BR /1535/PC/23, Jaffna Magistrate Court). Five police officers have been arrested.

Recommendations

We recommend the UN Human Rights Council the following:

1. Urge the Government of Sri Lanka to ensure the safety of suspects in police custody and during operations to apprehend suspects.
2. Urge the Government of Sri Lanka to ensure independent and timely investigations, prosecutions, and convictions of those responsible.
3. Request the Government of Sri Lanka to provide regular and detailed updates of investigations and prosecutions to the affected families and the general public.

Finally, we recommend that member States of the UN Human Rights Council and the UN Office of the High Commissioner for Human Rights express concern about this alarming trend, either publicly or bilaterally.

Committee for Protecting Rights of Prisoners (CPRP) Center for Society and Religion (CSR), NGO(s) without consultative status, also share the views expressed in this statement.

1. See <https://www.hrsl.lk/wp-content/uploads/2023/12/Draft-General-Guidelines-and-Recommendations-of-2023.pdf>
2. See <https://dbsjeyaraj.com/dbsj/archives/72915>
3. Ibid
4. See <https://www.newswire.lk/2021/11/26/basl-reveals-attempts-were-taken-to-stop-police-killing-suspect-in-custody/>
5. Ref. UA LKA 8/2021
6. See <https://www.hrsl.lk/wp-content/uploads/2023/12/HRCSL-letter-to-Attorney-General-on-21-December-2023.pdf>
7. See A/HRC/54/20 dated 6th Sep. 2023
8. See https://www.supremecourt.lk/images/documents/sc_107_2011.pdf
9. See <https://groundviews.org/2023/12/22/why-deshabandu-tennakoon-must-not-continue-as-acting-police-chief/>
10. See <https://groundviews.org/2023/12/22/why-deshabandu-tennakoon-must-not-continue-as-acting-police-chief/>
11. Based on the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015, which was in force when the alleged offence took place and when the writ application was filed