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SRI LANKA

01st June 2016

To;
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Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
and
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Special Rapporteur on Independence of Judges and Lawyers

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Sri Lanka

ALTERNATIVE REPORT TO THE COMMITTEE AGAINST TORTURE IN CONNECTION WITH THE 5TH PERIODIC REPORTS OF SRI LANKA

The 5th Periodic Report by Sri Lanka as a state party was due in 2012. It has been submitted on 16th October 2015. The present report of the GOSL is entirely rejects all the allegations of Sri Lanka being a country where widespread use of torture and ill treatment exist;

This is a summary report prepared by Janasansadaya that presents the situation of the wide spread torture in Sri Lanka and it will reveal the present situation of the atrocities in the country.

It is being 44 years since “To be free from torture” has accepted as a fundamental right. 22 years have elapsed since the bill against torture is legalised by passing as an Act of Parliament. The 170 Supreme Court judgments, nearly 4,000 complaints and recommendations of the human Rights Commission, documented and recorded by our organisation is a clear indication the Government does not have a need to control torture.

Whatever stated in the law, according to the experiences of two decades, the Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is not controlled because, the police, detention centers, jails, schools, and in all three forces (Air force, Navy and Army) have been using the “fear of psychosis” as a tool and the “torturous, cruel, inhuman, degrading treatments and punishments” were institutionalized.

It is evident that the government is not ready to eradicate or minimize the institutionalized “Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” even from the Supreme Court judgments.

"S.C. Application No. 433/93

This Court has also condemned the undesirable practice of police officers nonchalantly making false entries and fabricating evidence to cover up their illegal acts; The fact that police officers continue to commit unlawful acts including torture despite regular judicial condemnation of such acts shows that the authorities have permitted such acts, by their failure to impose effective sanctions."

Sri Lanka Police

This report will begin with an example when a police torture is reported, how the Sri Lanka government, medical services, the Magistrate, the higher-ups in Police not only taking measures to prevent law enforcement, but also to deny the right to life.

Name of the deceased: - Liyanaarachchige Samantha of Ulhitiyawa, Middeniya – Hambantota District.

On 19th February 2015 or on a closest date, four policemen including a sergeant from Suriyawewa police arrested Liyanaarachchige Samantha and subjected to cruel, inhuman and degrading treatment. On 19th night he was seriously suffering from the injuries due to torture and was lying inside the police cell. Next day morning, 20th, he was taken to Suriyawewa rural hospital from where he was transferred to Hambantota District General Hospital around 12 noon. N.B. The distance from Suriyawewa to Hambantota is 35 k.m., that takes only about 45 minutes to reach. It was evident that the victim was kept for nearly three hours without proper treatment. At the moment the victim admitted to Hambantota District Hospital, Police informed the medical officer that he was fallen and injured his forehead. Based only on the police information without any physical examination, the medical officer admitted him to the hospital. After sometime the Magistrate visited the victim and without any inquiries, acted according to the police directions and remanded him. On the 22nd the victim succumbed to the torture injuries. The postmortem discovered 20 visible injuries caused by beating.

Main injuries found were on; Head, face, hands, buttocks, soles of feet, thighs, and also found on his fingers. The fingers and testicles were smashed and it was also evident they tried to extract his finger nails.

The mother of the deceased has filed a fundamental rights case bearing no.SC/FR/85/2015. The Supreme Court requested the postmortem report which was submitted. By examining the photographs of the postmortem, the gravity and seriousness of the injuries and the horror behind the torture could be seen.

The Sri Lanka Police imposes these “torture, cruel, inhuman, degrading treatments and punishments” to;

01. Extortion
02. Extract information
03. To get confessions
04. Force to accept the fabricated offenses framed by the Police
05. Take revenge
06. To satisfy a third party or to fulfill their needs
07. To extract bribes
08. Instill fear
09. To cause pain or to get things done by a third party
10. To acquire publicity

Under the existing normal law in the country, information, statements or confessions collected gathered by Police under any circumstance is not valid.

Yet, to take people into custody, detain, level charges and produce to courts and make use of the courts and impose torturous, cruel, inhuman, degrading treatments and punishments they make use of;

1. Miscellaneous complaints: Under this, most are civil conflicts and disputes such as household disputes, domestic violence, money transactions, land disputes, non-repayment of loans, leases, violation of agreements, labour disputes etc;

2. Statutory laws: Extortion and Bribery is the common practice from top to bottom of Sri Lanka Police. Those who protest extortion or refused to pay bribes are subjected to torture, cruel inhuman, degrading treatment and punishments by using statutory laws. This fact was mentioned in several Fundamental Rights case Judgments.

S.C. (FR) Application No. 298/2005.

“ The Court has in recent times entered judgments in several cases in which the fundamental rights guaranteed by the Constitution for the equal protection of the law (Article 12(1); freedom from arbitrary arrest and detention, (Article 13(1) and (2) and from torture (Article 11) have been infringed in instances of false and fabricated arrests by the Police. These cases are from different parts of the country. To cite, some; SC (FR) 559/2003 is from Dambulla, S.C (FR) 297/2007, is from Colombo and this case is from Puttalam. The problem of infringements is thus widespread.

Only a few of the persons affected by these violations have the wherewithal and take the trouble to invoke the jurisdiction of this Court. Many persons pay up and suffer in silence leading to a general feeling of hopelessness, disbelief in the Rule of Law and the guarantee of fundamental rights. In the circumstances it is incumbent on this Court being vested in terms of Article 118(a) and 126(1) of the Constitution with the sole and exclusive jurisdiction for the protection of fundamental right of the People to make directions for the prevention

violations of fundamental rights in respect of certain classes and categories of infringements, in terms of Article 126(4) of the Constitution.

These instances of infringements relate to alleged offences under specific statutes such as the Motor Traffic Act, Excise Ordinance, the Forest Ordinance and the like, in which investigations do not stem from any complaint of a victim of an offences. The statistics of our Magistrate's Courts reveal that the majority of cases are of statutory offences. In instances where complaints are made of offences in respect of person or property (especially in respect of house breaking, robbery, theft and the like) many investigations end as "accused unknown" and classified as "C3."

"S.C. F.R. Application No. 297/2007

In the month of July this year being the very month the present incident took place, this Court entered a judgment in a similar case where a person who was transporting furniture for personal use having obtained a permit under the Forest Ordinance, although such permit was not required, was wrongfully arrested, detained and tortured because he refused to give a bribe of Rs. 5000/= that was demanded (Sarjun vs Kamaldeen – P.C 39753, Police Station, Habarana (SCFR 559/03 S.C Minutes of 31.7.2007)).

3. Special crimes: There are many special units to investigate "crimes or offences" established in or outside Police stations. The officers of the units do not use a uniform at any time but are plain clothed. They arrest people unlawfully. Once taken into custody, detain them outside their police station, torture and file cases based on false allegations.

4. Crimes: Under crimes, several offenses are marked and listed. The Police are given authority to go beyond the existing common law to take action on them.

For crimes, named and identified as Special crimes, the police is given authority to detain a person up to 48 hours by notifying the judiciary. This is normally applied when an incident creates a public commotion or an impact when arrested.

Police is given powers to detain a person after obtaining orders from a court in the police station for seven days (07) for crimes such as drug dealing, firearms and ammunition dealing. During this period the courts does not supervise, inspect or monitor if the detainee is subjected to torture.

Under Dangerous Drug Act, Fire Arms Act, Offensive Weapons Act, Offences Against Public Property Act are some of statutory laws frequently used by the Police to implicate innocents to take revenge or to satisfy a third party.

Eg.

On 28th May 2016 a under guidance of Senior Buddhist Monk Rev. Rahula, who was a close associate of former President Rajapakse Regime and a Deputy Inspector General of Police came with the Officer in Charge of Aluthgama Police Station, arrested Mr. Siriwardene for alleged offence of sexual harassment, of the Rev. Rahula's Sister in Law. He was illegally

detained in Aluthgama Police Station for two days. On 30th May 2016 he was produced before Kalutara Magistrate. The two cases were presented against him. One attempted to harass the Sister in Law of Rev. Rahula's sexually. The second was keeping a Hand Grenade manufactured in China in his possession. The Magistrate remanded Mr. Siriwardene because under offensive weapons Act; it was a non bail able offence.

On 10th December 2014 sister in law of Rev. Rahula appeared in court and withdrew the complaint made against Mr. Siriwardene, stating it was a false allegation made under undue influence.

On instruction of Attorney General, He was indicted in High Court of Kalutara under Offensive Weapons Act for keeping a China Made Hand Grenade in his possession.

On 15th June 2015 when the trial commence, the lawyer, the Police, Prison officers and court officials gave assurance to Mr. Siriwardene, who is in Remand Prison, that if he plead guilty to the charges, he will let free with a very lenient punishment. On that instruction, he pleads guilty for keeping a China made hand grenade in his possession. As promised the Trial Judge, gave his verdict, one year simple imprisonment suspended for seven years and Rs.1,000.00 fine.

NB. Mr. Siriwardene afterwards confessed, who is living next door, to Rev. Rahula's parental house has an intimate relationship with, Rev. Rahula's sister in law. Rev. Rahula who was jealous about this affair used Police to take revenge. When he was in remand prison several Policemen who met him has told that they were helpless, and have to obey the Higher ups.

5. PTA: Under the Prevention of Terrorism (PTA) Act, Minister of Defense can issue an order, on request of Police to detain any person. This order gives extra ordinary powers to police to detain a person for ninety (90) days in any police unit. Under this law, even people who are not involved in any kind of terrorism act could be taken into custody and tortured cruelly, for 90 days. The accused is then charged with framed offenses where a magistrate could not grant bail.

Eg: 30 year old Susantha, was abducted by a white van on 26th December 2012 around 6.00pm and taken to Colombo Crimes Division (CCD). It was revealed latter that he was abducted to implicate him to murder of a wealthy businessman. The detention order to detain him under PTA was issued to the CCD by the former President as Minister of Defense. CCD kept him for 03 days, continuously torturing him to get a confession to the murder. After 93 days He was produced before the Magistrate, for possessing weapons belonging to LTTE. Due to pressure of close relatives, the Police higher ups removed CCD handling the murder case and handed it over to the Criminal Investigation Department (CID). After one year CID, arrested the Son of the murdered businessmen, Assistant Superintendent of Police, attached Special Task Force, Inspector of Police attached to CCD and several other policemen. The Samantha was discharged from the case. Though he was free, the agony he and his family won't recover. This is only one example.

6. Under the common law a person could be detained and kept in police custody only for 24 hours. This time period is only limited to the record book or to the records. In some cases people are detained for 10, 15 days. In order to detain a person longer than 24 hours, they avoid recording the arrest; refrain from issuing a receipt related to the arrest; not revealing the identity of the officials who arrested the person. Police will take precautions not to apply any rule or regulation concerning the arrested person. The arrested date is marked in books as the day prior to the day the victim produced to the courts. False information on the date arrested, the time and the place is recorded. This false information is submitted to the courts. We wish to quote Supreme Court observation regarding this matter.

" SC. FR Application No. 252/2006:-

Article 13(2) of the Constitution stipulates that –‘Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the Judge of the nearest competent court according to procedure established by law, and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such Judge made in accordance with the procedure established by law.’

'section 37 of the Criminal Procedure Code and section 66 of the Police Ordinance require that a person arrested without a warrant should be produced before a Magistrate with the least possible delay. The limit of twenty four hours prescribed in both sections does not enable the police to detain a suspect for the length of time even when he can be produced earlier or to deliberately refrain from producing him before a Magistrate.

“The law requires (section 66 of the Police Ordinance) that an accused person taken into custody by a police officer without a warrant must forthwith be delivered into the custody of the officer in charge of the Police Station *in order that such person may be secured* until he can be brought before a Magistrate to be dealt with according to law. That is the lawful purpose to be served by means of detention and we would sternly and emphatically disapprove of what seems to have become the common practice of compelling an accused to accompany the Police from place to place for the purpose of participating in the detection of a crime. The delay of his production before a Magistrate in order that this unlawful purpose may be served is illegal and deserving of censure.”

“Any police officer shall not detain in custody or otherwise confine a person arrested without a warrant for a longer period than under all circumstances of

the case is reasonable and such period shall not exceed twenty four hours excluding of the time necessary for the journey from the place of arrest to the Magistrate”.

6. How the victims are tortured:

The major ways in imposing torture, other cruel, inhuman, degrading treatments and punishments by police are;

Severe assaults to the soles of the feet (Falanga), hang on a pole tying hand and feet together and attacking the soles of the feet (Dharmachakra), forcibly strike buttocks, head, legs using a rubber hose; keep hanged from the thumb or wrist after tying the hands behind the back (Palestinian Hanging); move hands backward, wriggle and hand cuff and keep in that position for a long time; handcuff and make to sleep on floor for longer hours; keep naked; keep kneeled for long hours; insert extremely hot chilli pepper pastes in to the anus, apply on the penis, apply on eyes, nose and ears, submerge in water (Water boarding), assault physically and bathe, keep without food and force to drink latrine water are some.

These types of torture are conducted in the crime branch of the police or in police barracks. Torture is inflicted on the victims at night, after taking intoxicating alcohol heavily.

7. Some basic reasons why torture, cruel, inhuman, degrading treatments and punishments cannot be minimized or eradicated.

1. Inconsiderate and reckless Police action against the persons who are taken into custody without caring for the rules, regulations or law is carried out, with government backing and this is allowed to be done by the Inspector General of Police and officials below him. For such actions support is also extended by the civil and religious groups and media.

2. When the arrested persons are produced before medical officers for inspections, some medical officers issue medical reports without conducting proper examinations in collusion with the Police.

3. When arrested persons are produced before magistrates, most magistrates issue orders according to the needs and wish of the Police. This fact was admitted by Supreme Court but Majority of Magistrates is in collusion with the Police.

4. The majority of the lawyers practicing in Magistrate courts are depend on Police, they fear Police. They don't want to antagonize the police. Under these circumstances a lawyer who appears on behalf of a suspect, refuses to mention the real date, time and place of arrest; regarding torture and ill-treatment and does not request the judge to give an order to produce the suspect to a Judicial Medical Officer for examination and for treatment in a Govt. Hospital.

These lawyers also play an intermediary role and pressurized the suspect to plead guilty in exchange to a lesser punishment.

SC Application No. 488/98

“Unfortunately, the Magistrate has almost mechanically made an order of remand because the police wanted them to be remanded.

Issuing warrants of arrest (in the case of Mahanama Tilakaratne Vs. Bandula Wickramasinghe, 1999 1 Sri L.R 372);

Magistrates should not issue remand orders 'to satisfy the sardonic pleasure of an opinionated investigator or a prosecutor' (at pg.382). Remanding person is a judicial

act and as such a Magistrate should bring his judicial mind to bear on that matter before depriving a person of his liberty. ”

4. The suspect is not given the opportunity to state the pains and sufferings undergone. Even if the opportunity is given, they are not recorded.

5. Even if the victim states about the violence inflicted, orders are not given to produce before a judicial medical officer for examinations.

6. The Higher Police officers and the Prison Officials, Ignore and not perform the orders given by the judges to; admission to a hospital; submit medical reports; investigate the arrest and report back; investigate how the firearms or drugs received and report back.

7. Although the law permits to bail out, obliging the Police requests, the suspect/accused is remanded. Through this the opportunity to take legal action, medical treatment is completely prevented and justice denied.

Bail Act, No. 30 of 1997; Para 2:-

"Subject to the exceptions as hereinafter provided for in this Act, the guiding principle in the implementation of the provisions of this Act shall be, that the grant of bail shall be regarded as the rule and the refusal to grant bail as the exception."

8. When bailing out, a condition is laid to be present and sign the name once or twice a month at the very Police station where the person was tortured. Through this, the person is subjected to constant suffering and pressure to plead guilty to the fabricated charges. Extract bribes. Most important is this prevents the victim taking legal action against Police due to fear. Though the attitudes of Magistrate and High Court judges regarding bail was critically analyzed and made recommendations. But unfortunately Judges ignore these to satisfy Police.

Court of Appeal judgment - C.A (PHC) Application No. 58/201

“The suspect appellant is said to be concerned in the commission of an offence relating to the murder of a police officer, robbery etc. Several other suspects involved in the said crime have been killed in a mysterious manner.

This appears to be the reason that influenced the suspect appellant to refrain from reporting at the police station. The learned High Court Judge ought not to have taken the failure of the suspect to report at the police station as a default contributing to an inference that he would not appear to stand his inquiry or trial, interfere with the witness or the evidence against him or otherwise obstruct the course of justice or commit an offence while on bail. Acting in revision, I set aside the impugned order of the learned High Court Judge dated 14.09.2012 and direct that the suspect appellant be allowed to continue to be on the same bail as imposed by the learned High Court Judge on 10.05.2007. Accordingly, the bail granted to the suspect appellant should deem to have been never cancelled.

Further, the learned High Court Judge is directed to relax totally the condition of having to report to the police station. In passing I observe that Judges of the original Court empowered to grant bail should be very slow to impose a condition on the suspects to report to a police station at different intervals, as the police department plays an important role in prosecuting the case against the suspect and when they are directed to report to the police, obviously they come in contact with the prosecution witness and there is a possibility however negligent the chances may be for an unscrupulous police officer to abuse his authority and take the mean advantage of the helpless and desperate plight of an accused. In those circumstances the suspect is brought under severe hardship in having to attend the police station pending the conclusion of the trial. Hence, an imposition of a condition to report to the police station should not be made as matter of course unless the circumstances really cry out for such a condition. In the event of constant surveillance of the suspect is necessary, it would be more appropriate to order the suspect to report to the Registrar of a court of the choice of the Judge who make such an order or any other officer of court nominated by court or to other person or authority not involved in conduct of the prosecution or defence in the case. This would facilitate the elimination of corruption and abuse of authority that may take place in the suspects having to report to the police stations. Further, such an arrangement will undoubtedly give meaningful effect the presumption of innocence guaranteed under the constitution.

For reasons stated above, I allow the revision application and direct the Judge of the High Court to release the suspect appellant forthwith on the exiting bail condition after revoking the condition to report to the police station. The Registrar of the court is directed to forward a copy of this Order to the Registrar, High Court of Ratnapura."

Judge of the Court of Appeal

9. Pressurise to accept accusations made, undue pressure is built to plea for guilt.

10. When plead not guilty, for fabricated charges, the court imposed unbearable bail conditions and hearings are dragged at least for five years.

11. As a result of the dragging court cases many adverse affects takes place such as; a huge amount has to be spent as lawyer's fees; be submissive due to the pressure of the court; not only these but at times lose employment; undergo social pressure; inability to recall evidence; tiredness due to dragging case; causes mental trauma; sometimes become bankrupt.

Eg:

D.P.A.I.P.V. Udayanga- Age 18; On 7th August 2003, was arrested by four policemen attached to Ratnapura Police and subjected to torture, cruel inhuman and degrading treatment and punishments. Subsequently he was produced before Ratnapura Magistrate court on fabricated charges. The case no. 54821 MC Ratnapura. Even after 13years, from 08th August 2003 up to now the case is dragging on. He and his family already spent more than Rs.990, 000.00 as lawyer fees.

On 30th October 2013, after 10 years on the instructions of AG, Police Special Investigating Unit, indict The Four Policemen under Torture Act by High Court Ratnapura. Case No. HCR 283/2013.

In contrary to Establishment Code, all policemen are still at large and working in the same Police Station. The first accused Priyankera Dharmadasa at the time of incident was a Sub Inspector and recently was promoted to Inspectorate, despite ignoring the Human Rights commission recordation issued on 16th January 2007.

Human Rights Commission No. HRC 4186/03.

NB; This young man was deprived from getting a reasonable carrier. H.S. Ratanasiri Fernando; Aged 50. Professional Toddy Tapper. On 08th October 2010, two policemen attached to Welipenna Police, attacked and severely injured him. After that he was arrested and produced before court on two counts and remanded him on fabricated charges. No legal or disciplinary action taken against the policeman. The two cases against Ratnasiri (62289 and 62698) in Matugama Magistrate court is dragging on. The police forced him to plead guilty and withdraw the Fundamental Rights Petition, SC/FR 514/2910, he filled in the Supreme Court. Up to now Ratnasiri has to spent more than Rs.15,00,000.00. The incident was videoed by a passerby. It shows what has happened and the behavior of Policemen.

N.B:- Link to the Video; <https://www.youtube.com/watch?v=FFCOLPSyUxY>

12. Most cases against police in relation to custodial deaths, extrajudicial killings, murder, torture, cruel inhuman, degrading treatment and punishment (comes under preview of Torture Act), causing grievous hurt (Section 317 of Penal Code) and causing hurt to extort confession...(Section 321 of Penal Code) are suppressed or covered up by Police. Amidst these, attention is paid to a selected small number of cases handed over to the Police Special Investigation Unit for scrutiny, investigated and sought the advice of the Attorney General and indict (filed charges) in the magistrate courts and high courts.

Like others, these cases are also filed after several years elapsed.

Eg;

Case No's:- SC/FR 126/2008 & HCB 16/78

On 7th March 2008 Budhi Ivantha Gunsekera (17years), arrested by Meetiyagoda Police and subjected to torture and cruel inhuman, degrading treatment and punishment. Next day he was produced before Balapitiya Magistrate court on fabricated charges. After 6years, 5th May 2014, Attorney General took steps to indict four Policemen under torture act and on 19th June 2014, Police withdrew the fabricated case against Budhi Nivantha filed by themselves in Balapitiya Magistrate Court. Recently, Fundamental Rights, Case No:- SC/FR 126/2008 was called and trial began. Up to now High Court failed to begin the case.

ii. Case No:- 54821, Magistrate Court, Ratnapura & HCR 283/13 High Court Ratnapura.

On 7th August 2003 Udayanga (18years) was arrested and tortured by Policemen attached to Lewella Police Post. Next day He was Produced before

the Magistrate on fabricated charges. The case against Udayanga, dragging on for 13 years in Ratnapura Magistrate court.

After 10 years Attorney General take steps to indict the 04 policemen under Torture Act, in Ratnapura High Court.

From the time cases are filed, the complainant (victim) is pressurized by the accused police officer or officers.

Out of the cases filed, some allegations/charges are wrongly made and in such instances the accused police officer/s gets out scot free.

According to Torture Act, "torture" with its grammatical variations and cognate expressions. means any act which causes severe pain, whether physical or mental, to any other person, being an act which is - (a) done for any of the following purposes that is to say –

- (i) obtaining from such other person or a third person, any information or confession; or*
- (ii) punishing such other person for any act which he or a third person has committed, or is suspected of having committed ; or*
- (iii) intimidating or coercing such other person or a third person; or done for any reason based on discrimination, and being in every case, an act which is done by, or at the instigation of, or with the consent or acquiescence of, a public officer or other person acting in an official capacity*

Eg: Case No:- HC294/203, High Court Kalutara.

On 2002.10.22 Kusumawathi (Marriage broker) was in a house discussing a marriage proposal. At that time a group of people were playing cards. Suddenly number Policemen crashed in. All people playing cards ran away. Policemen chased after them. The Officer in charge Sub Inspector Nishantha, a chubby person, also join the chase. But he felled. The on lookers including Kusumawathi started to laugh. Sub Inspector Nishantha, who know Kusumawathi before, came near to her and verbally abuse her and hit her with pole which struck her arm. She felled and started crying unable to bear pain. She was rushed to Hospital. Medical Officers who observes her, found that her left hand bone was fractured. She had to undergo surgery. Police Special Investigation Unit inquired in to her complaint, The Attorney General Indict Sub Inspector Nishantha, under torture act on 1st August 2003. But it was found in the trial, charges framed by the Attorney General were wrong. On that ground High Court Judge acquitted Sub Inspector Nishantha and set him free.

N.B.:- Human Rights Commission after investigating into Kusumawathi's complaint, recommend a compensation of Rs.25.000/=. But Sub Inspector Nishantha refused to oblige.

Case hearings are delayed purposely, make possible the accused to plead guilty and provide an opportunity to set them free without any punishment. This is done by making the victim to agree to an inadequate compensation and imposing a suspended sentence and instead of a fine, court imposes a payment to cover the state cost.

Eg. Case No; HC 352/2004. High Court Kalutara

On 10th of November 200, Mr. S.A. Samarasinghe was summoned to appear in Baduraliya Police. When present himself in police he was arrested and detained. He was detained for 5days and subjected to torture. Police wanted him to accept a murder took place some months back, in Baduraliya Police division. The police used all available methods of torture. On 5th day he was forced to consume Spirit of illegally distilled liquor. After he went partially unconscious and his behavior become uncontrollable. Police took him to National Mental Health Institute – Angoda, claiming he was a lunatic. But Medical officers refused to admit him, and ordered the Police to take him to a General Hospital. Police took him to Kalutara, Nagoda General Hospital. The Medical Officers in the Hospital in collusion with the police refused to treat him. At that moment Janasansadaya intervened and through Human Rights Commission, admitted him to Colombo National Hospital where he was treated. The Special Investigate Unit investigates and, Attorney General indicts three policemen under Section 321 of the Penal Code. Case No. HC 352/2004. Trial commenced on 2009.12.16. From that day case was postponed without any credible reason up to 2015. 10.12. On that day accused police officers made request to the court that they ready to plead guilty to the charges on condition. The court agreed to request of the accused policemen and case postponed to 2015.12.16. On that day the 3 accused police men plead guilty to all charges. With consent of state counsel who represent Attorney General, the court accept the plea and ordered the 3 accused to pay Rs 200,000/-as compensation to victim, Mr. S.A. Samarasinghe. The Victim refused to accept money, and he told that he needs justice. The court was adamant, and judgment was delivered. The three police officers were convicted. Sentence was a simple imprisonment; For 1st offence 6 months & for the 2nd offence 18 months, suspended for 7years and order them pay Rs.1500/ as state cost.

Mr. Samarasinghe, who was a skilled craftsmen/Carpenter will never recover from the Physical and mental trauma, he is dependent of his wife. The murder happened 15years ago, still a mystery and is an unsolved crime. All three Police Officers who found guilty by court are still in police service enjoying all privileges.

In High courts when judgments are given in favor of the Accused and the judgment challenged in Court of Appeal, the cases are dragged for more than ten (10) years without hearing.

Eg. Case No; HCCA 127/2006. Court of Appeal; on 2001 sep. 14 Ms. Ranjani Rupika (Age 33- pregnant) was kicked, pushed and dragged by the Police officers attached to Matugama police. She was arrested instead of her husband (kept as hostage).

She was detained in police and released on bail, with fabricated charges. Immediately after release, she was admitted to hospital, due to excessive bleeding and undergone an abortion. The complaint was investigated by Special Investigation Unit and after 2years Attorney General indicted 01 policeman (Senaka Samarasinghe Inspector of Police) in High Court Kalutara. Case No:-276/2003. After 3year (Six years after the incident) Accused police officer acquitted by the High Court Judge giving silly reasons on 22nd August 2006. The Attorney General and Ms. Ranjani Rupika appealed against this judgment in Court of Appeal, on 2006 September 05.

Up to now case is pending in Court of Appeal. For the appeal 10 years has elapsed and for the incident 16 years elapsed. But, the policeman is still in-service. Human Rights commission who inquire in to this case delivered a recommendation, that this policeman had violated the Fundamental Rights of Ms. Ranjani Rupika, and directed the Inspector of Police Senaka Samarasinghe to pay Rs. 50,0000/- as compensation and copy of the recommendation was sent to Inspector General of Police, requesting to take disciplinary action against him. This Policeman up to now did not oblige the order given by the Human Rights commission and refused to pay the Rs. 50,000/-compensation. Ref. no is HRC/T/48/01.

In cases of this nature, the Attorney general (Crown Counsel) does not perform his duty properly.

As the police appears and runs the case in Magistrate courts, the performance does not take place properly.

When complaints are made to the Inspector General of police regarding the torture, cruel, inhuman, degrading treatments and punishments, he orders the Superintendent of Police who is in charge of the police area to submit a report. He then gets a statement from the accuser known as the complainant and gets a statement. When this statement is taken the accuser or the complainant is placed in a susceptible position and gets the statement to protect the police.

Keep the accused police officers in the same police station and in many occasions promoted to higher positions giving an impression to the others that torture, inhuman, degrading treatments and punishments are a qualification to get promotions.

To convince the others through the complaints made against police no relief could be obtained, cases are filed under false charges against those who make complaints. Most fundamental rights cases filed during the past years were not heard and finalised.

The reasons for such delays in hearing are;

Postponement of the cases - at the discretion of the Judge or because of the intervention of the lawyers of the accused, well as aggrieved party.

By not proceeding with the case until the cases filed by the Police in Magistrate courts or High Courts are finalised.

Postponement indicating the willingness of the accused to settle the case outside the courts.

Ignore the Supreme Court judgments given, by the Police and government on fundamental rights cases.

The judgments given against the state and police in relation to the illegal detention, torture, cruel, inhuman or degrading treatments and punishments are neglected and not implemented. No action is taken against the officials who avoid paying compensation (reparation) when the court orders.

Eg; SC(FR) No; 224/2006.

Link: <http://www.janasansadaya.org/page.php?id=159&lang=en>

When judgment is delivered accusing police officials for violating fundamental rights, no action is taken by police against them.

The general public is not informed and educated by the police on these matters.

We like to mention few judgments though the Policemen were convicted, the punishments given against them are only technical, which was not affected the perpetrators carrier at all.

Eg;-

Panadura Magistrate Court Case No:- 6300. On 2002 June 28 group of five policemen attached to Panadura South Police assaulted Janaka Perera who was sustained grievous injuries. Police Special Investigating Unit after making inquiries, on Attorney Generals instructions, arrested the five policemen and produced before Panadura Magistrate court on May 2006, after four years. After seven years four out of five policemen were discharged, one police constable name Lal Gunatilake convicted on unlawful assembly (section 140 of the Penal code) and for voluntary causing injuries (section 314 of the Penal code).

He was given a one and half year rigorous imprisonment, suspended for ten years and ordered to pay Rs. two thousand as a fine. He made a revision application to High Court Panadura, stating that he admit guilty to offences, and he accept the ruling of Magistrate, but he request the court to revise the Rs Two Thousand fine as State Cost. The High Court allowed the application and revised the fine as state cost, and removed the criminal liability.

This Police constable without any consequences to crime he committed, serving the in the same Police Division.

8. Human Rights Commission, National Police Commission and National Child Protection Authority

To be free from torture, cruel, inhuman and degrading treatments and punishments is an absolute, non derogable right. Under any circumstances this right cannot be denied. The state is bound to protect all citizens from torture, cruel, inhuman and degrading treatments and punishments.

The responsibility of the three institutes; The Human Rights Commission, the Police Commission and the Child Protection Authority is to protect the citizens in accordance with the national laws, conventions and covenants ratified by the government and therefore it is important to look into their actions and behavior.

There is no argument that Police is the major institution that violates the right to be free from “torturous, cruel, inhuman, degrading treatments and punishments” (Non-derogable Right).

Accepting that torturous, cruel, inhuman, degrading treatments and punishments prevail all over police and the persons taken into custody are subjected to such cruelties, the **Police Commission** has completely failed to step rapidly and develop an efficient programme to change this situation.

Instead, it has adopted a policy to refuse the complaints made by the public on torturous, cruel, inhuman, degrading treatments and punishments; confuse the public and discourage the public making complaints.

As a result, the general public gets the feeling that making complaints against Police is useless. When there are no complaints the government gets the opportunity to come to the conclusion easily that there are no torturous, cruel, inhuman, degrading treatments and punishments in Police.

National Child Protection Authority (NCPA)

The responsibility and the duty of the NCPA is to intervene and take rapid legal action, provide relief and also prevent children falling into cruel, inhuman, degrading treatments and punishments.

The authority has made its duty to give publicity to media highlighted child abuses of civilians that belong to marginalized sectors, while close its eyes to the abuses caused by the government and non government schools and religious institutes.

NB:- NCPA is not an independent body. It comes under Ministry of Women's Affairs. All appoints from chairperson to bottom based not on merits but solely based on political affiliations. Their main task is to protect child abuses and serve their masters, not the affected children.

Eg:-

1.R. Ajith Kumara, Age 16 years.

On 19.03.2016 Thebuwana police made this child to come to the police, arrested and subjected to torture cruel, inhuman and degrading treatment and produced before the courts. The court remanded the child, and ordered to send him to a children's home. The child had to take treatments from Kalutara, Nagoda General Hospital and Panadura Base Hospital for the assaults. The medical officers have also ascertained that he is suffering from Post Traumatic Stress Disorder. Although, mother complained to NCPA, complaint was completely ignored. Ajith Kumara belongs to Indian origin estate Tamil community.

2.Thiyunu Nuwan Gunatillake, Age 11 years.

On 17th Feb. 2016 A group of male teachers of Sri Sumangala boy's school, Panadura(A National School administered by Ministry of Education), took him out of school to a barber shop by force during school hours, cut his hair, disfigured and abused him. The child is a talented artist, appearing in television dramas and advertisements. Though parents complained to NCPA, the authority ignored the case and set free the child abusers.

3. *Nisansala Sandamali, Age 15 years.*

On 04.03.2015 this girl child was arrested by Galle Police and handed over to the Children & Women Bureau Unit in the Police, where she was subjected to cruel, inhuman and degrading treatments. Later a complaint was made to the principal of the G/Sangamitta College where she studies. When she reported to the school, the Principal has subjected to cruel, inhuman and degrading treatments and chased her out of the school denying her right to education. Up until now she was not allowed to attend the school. NCPA completely ignore the child rights and protect the corrupt Principal. Nisansala Sandamali, belongs to a poor marginalize family of southern Sri Lanka.

4. *Child abuse in religious institutions; (Children deprived of freedom, love and affection)*

To our knowledge there are 08 reported cases in Panadura Magistrate and High Court against a Senior Buddhist Priest (Monk) for sexually abusing novice monks (Samanera) and girls attending Sunday school. Majority of the cases came into light when these novice monks fell critically ill and admitted to hospitals. Though the police took legal action against some of these abusive monks and some are convicted, child abuses which are wide spread in temples are not addressed by the NCPA.

4.1. *There are many children's homes around Sri Lanka, many are run by Voluntary agencies, including religious institutes.*

E.; The Princess Grace Orphanage (Children's Home for destitute children) is owned and maintained by Catholic Church, situated in Kalutara. There is

another home attached to this was maintained by the church to look after infants and pregnant mothers.

In mid 2013, the new priest, named Lester, was appointed as in charge. He immediately ordered 40 girls and boys over 18 years to vacate the premises. All girls obliged to the order of the priest and vacated the premise. But boys refused to vacate, without alternate settlement. The priest, disconnected electricity supply to the building where boys are living from the day they were born. But boys refused to vacate without an alternate lodging. The priest tried to disconnect water as the next step. The boys launched a protest. On 27th July 2014, the priest lodged a complaint at Payagala Police Station, against four boys. Police arrested the boys and produced before, Kalutara Additional Magistrate, Ms. Ayesha Abdeen. They were released on bail. On 27th August 2014, Payagala police filed another case against 16 boys. In this case Police request an eviction order to, evict destitute boys from the home. Magistrate complied with the police and issued an eviction order, which is contrary to law. Boys refused to accept the order, and made a revision application to Kalutara High Court. Unfortunately High Court Judge refused the application, and the judgment given ran to sixteen pages. The destitute boys, the orphans, challenged this judgment in Court of Appeal. On the first day, the court of Appeal issued a stay order, stopping the Magistrate and High Court judgments to evict boys. The Senior State Counselor who appears on behalf of Attorney General strongly defends the Magistrate and High Court decision. After listening to the arguments, The judgment was delivered on 29th August 2014, Magistrate decision was revised and set aside.

The orphans are peacefully living in the Princess Grace Orphanage (Children's Home for destitute children), though the name board was removed by the church. In this case, it came into light, that this Orphanage/Children Home is illegal and the child rights were violated. Though orphans made complaints to the authorities including NCPA, no action was taken.

Human Rights Commission of Sri Lanka (HRC)

The Sri Lanka Human Rights Commission has declared non-derogable right to be free from torturous, cruel, inhuman, degrading treatments and punishments and zero tolerance to it as its policy and said to be works accordingly. In order for the Commission to protect the non-derogable right, certain practical actions that should be adopted are given here with the hope that it will help the Sri Lankans to enjoy the non-derogable right to be free from torturous, cruel, inhuman, degrading treatments and punishments.

1. Emergency calling number (Hot Line)

To make this hot line that was introduced some time back efficient and effective. We have been requesting to make this hotline effective for the past few years. This request was made even at the first Civil Society member meeting after the new commission was appointed in 2015. But, there is no change made so far.

Instead of the present system that use mobile phones on a roster base, to introduce a permanent emergency line that functions for 24 hours.

Through this, a polite and effective legal advice facility could be introduced to the general public.

Through this facility, the complaints on illegal detentions, abusive torture, by the police could be recorded and utilize as the first complaint of the victim in order to take legal action.

1. The caller should provide the identity to the receiver. (Presently denied)
 2. Considering the call as the first complaint, gather all important, required information and record to accept the complaint. (Presently denied)
 3. To issue a number to the complaint made. (Presently denied)
 4. To gather information from the related police station or detention center, record them and inform the complainant and carryout the related follow-up work. (Presently denied)
 5. To provide the complainant or the victim the information relating to the complaint made to be taken up at the judicial or commission inquiries. (Presently denied)
 6. About torturous, cruel, inhuman, degrading treatments and punishments;
To get information in relation to the complaint from the victim, clarifications needed the evidence etc. (Not satisfactory)
 - 6.1. To gather information in writing from the accused party; to investigate other related reports, court judgments, medical reports. (Not satisfactorily done at present)
 - 6.2. To summon both parties, inquire and make recommendations. (Not satisfactory)
 - 6.3. To take necessary action to make the recommendations implemented. (Presently denied)
- To consider appeals from any party concerned, inform both parties involved, consider the appeal and make appropriate decisions. (Presently denied)

7. Inspection of the premises/locations (Known as Police visits).

Human Rights Commission on regular basis makes surprise visits to Police Stations. It is a question how success full these visits are in preventing Police violating the Fundamental Rights guaranteed by the Constitution. At present Human Rights Commission officials who visit Police Stations do have access only to examine the lock ups/Cells, but not the barracks or other detention places. *On Attorney Generals instructions, Inspector General of Police issued circular bearing No.1796/2004 dated 27.09. 2004 clearly says, before entering places of detention, should inform the Senior Superintendent of Police of the division or the Assistant Superintendent of district, prior to the proposed visit and another police officer to accompany them..... "*

To stop torture in Police stations and to make it a reality, the ban to inspect the barracks should be lifted.

And there are allegations that;

The Police Officers somehow come to know about the visit prior to it. When the officers make the visit, some officers befriend with the Officer in Charge and get royal treatment.

The findings of these inspections, progress and the decisions made or the conclusions arrived at are never publicized.

These drawbacks should be done away with to implement Zero Tolerance Policy on Torture.

8. Inspect the detention centers frequently and make recommendations. It should be not only the jails & centers under Department of Prisons, but also the detention houses/homes managed by the government (Department of Social Services, Child Care & Probation), as well as non-government detention houses and homes should be inspected. (The persons deprived of their liberty)

9. During the past some cases were subdued, quietened and buried. Extra judicial killings, killings of persons in custody, illegal detentions, torturing are some and steps should be taken to probe and investigate these fundamental right violations.

10. Parallel to the above programmes, education and information sharing programmes should be launched to educate the public on the fundamental rights of the people guaranteed in the constitution. Priority should be given in the print and electronic media in conducting these programmes through which everyone will have the opportunity to educate themselves. Especially when the general public is educated, the government officials know that the public is aware of their rights and they could take action in case if they are violated.

11. All officers, specially investigations officers and public relation officers of the HRC should be trained not only on the UN Conventions and Covenants, but also should provide the basic knowledge on what Police can do and cannot do. Training should be targeted to build competency of the officers (Especially on Public relation, on investigation, documentation, equality)

Eg;

Ms. Algama resident of Colombo, came to know that her husband has taken a divorce, using illegal methods while they were living as husband and wife. After it came to light she went to court and gets a stop order. But the husband, abandon her and left with the children. She went to live in marital house legally belongs to the husband. The farther of the husband with the help of the Police, tried to eject her from the house. When she made a complaint about the illegal act of the Police, the HRC investigation officer who handled the case, collaborated with the police and instructed her to leave the house confirming that Police has a right to eject the incumbent from the house. This happened on 13th May 2016. HRC complaint no; HRC/1939/16

NB:-

The last Commission presided by retired Supreme Court Judge Mr. Priyantha Fernando, misused the funds, mismanaged and turned it to another corrupt, ineffective institution, did everything to protect the Human Rights violators.

Eg;

Fundamental Right case No. No. SC/FR 608/2008.

Human Rights Commission case No. HRC 3552/2008

Mr. Sarath kumara Naidos (38years), labourer, was arrested on 05th July 2008 by Moratuwa Police (Colombo district). From time of arrest he was subjected to sever torture to get information on house break happened some days back. From the day of arrest, mother of Mr. Sarath kumara Naidos continuously informed the Human Rights Commission and by written complaints were sent, requesting to send an investigation officer to the Police Station to intervene and stop torture. For five (05) days Commission evades the complaint and refuses to comply.

On 13th July 2008 he was produced before Moratuwa Magistrate court charging him of possession of 0.94mg of Heroin/Disetile Morphine-(case No. 90215) and house break (Case No. 89984). He was remanded by the Magistrate. On 23th July 2008, on behalf of Naidos, Lawyer appeared in court and stated the facts of arrest and torture and requested an order to produce him before a Judicial Medical Officer. They allowed the application and ordered Prison Authorities to produce him before a JMO and obtain a report. Subsequently on 28th July 2008 Police filed another charge against Naidos, for snatching a Gold Chain (Case No. 89094).

After One and a half years, 19th April 2010, Naidos was bail out by High Court, Panadura. After some time Police withdrew the Gold Chain snatching case.

On 2013.01.16 Naidos acquitted from the House breaking case bearing No. 89984.

On 3rd November 2013 from Naidos was acquitted from the Heroin case bearing No. 90215 Magistrate Court, Moratuwa.

Mr. Sarath kumara Naidos filled a Fundamental Rights Violation case on 28th December 2008; Case No. SC/FR 608/2008.

From the day it was filed, the case dragged for 7 years. After 7 years, in October 2015, Counsel appearing for the Respondents (Police Tortures), stating that Fundamental Rights petition should be dismissed on the grounds of time-bar. His argument was that Mother of Naidos, Mrs. Asilin, who was the first complainant to the Human Rights Commission regarding arrest and torture, was not interested in proceeding with Human Right Commission. On that ground Human Rights Commission has dismissed the complaint. On this matter, The Hon. Chief Justice Mr. Sri Pawan, notified the Human Rights Commission, to send him a report.

The reply of Human Rights Commission was that they are unable to trace the case file bearing No. HRC 3552/2008.

When case came before 30th April 2016, obliging the respondents counsel request, the Hon. Chief Justice Mr. Sri Pawan again made and ordered the HRC to send a report regarding, the HRC position on investigation.

From the date leave to proceed granted by the Supreme Court, Attorney at Law for the respondents, tried to approach petitioner's lawyer for an amicable settlement out of court. The petitioner's lawyer vehemently rejected the proposal, on grounds that it is unethical and against ethics of lawyer and freedom torture is absolute, derogable right that cannot be settled.

The perpetrators do not keep quite. They tried various ways and means to bring pleasure not only Naidos but also to his family. At one time a junior lawyer practicing in Moratuwa Magistrate Court tried to influence Naidos. At these instances Naidos made complaints to the Human Rights commission. With this back ground the Fundamental Rights case SC/FR 608/2008 is dragging on.

Ironically the Counsel for the Respondents (Police Tortures) is Senior Attorney at Law Mr. Saliya Peiris, is one the Commissioners of the Present Human Rights Commission.

NB. According to journal entry dated 29/04/2016 the present attorney is one Mr. Devendra.

On 29/05/2016 when we inquired form the HRC, the Officer named Ms. Nirmala, (clerk to the Director, Investigation a and Inquiries, Ms. Sasanka), informed us according to computer data, the reasons to dismissal the application, was

*1. Applicant not interested 2. No infringement of Fundamental Rights 3.A Fundamental Right petition was filed in the Supreme Court
And she informed us to verify, the relevant file bearing no. HRC 3552/2008 cannot be traced, it is missing.*

National Police Commission

Though it said to be independent, even after one and half years elapsed after establishment, it did not do anything, at least to address the Police atrocities, particularly the Police torture which is widely spread.

We like to bring to your notice the observations and directions gave to NPC by the Supreme Court.

"On the basis of the aforesaid findings I declare that the 1st Respondent committed an unlawful arrest and unlawful assault of the Petitioner and grant to the Petitioners the declaration prayed for, that their fundamental right to equality before the law and freedom from arrest by undue process as guaranteed under Article 11, Article 12 (1) and Article 13 (1) of the Constitution has been infringed. Given this finding and the evidence that has come to light of the several instances of negligence regarding the oversight of the 1st Respondent by the Superior Officers charged with such responsibilities, this Court makes the following further orders and declarations:

1. An inquiry is to be held by an independent inquiring officer of the National Police Commission as to why both Mr. K. Udayapala and Mr. Deshabandu

Tennakoon failed to take any action regarding the recommendations of the SP of Homagama in accordance with the Departmental Police Orders binding upon them. This Court notes that such an inquiry is as important in establishing the culpability of the offenders as it is in exonerating superior officers who may currently be clouded by perceptions of impropriety regarding this matter.

2. *The 2nd respondent, who filed a copy of the Inquiry report from which the findings of the SP Homagama had been deliberately removed, is to report to Court within two months of the delivery of this Judgment to explain why he chose to submit a fraudulent document and why he should not be dealt with for Contempt of this Court. The case is to be mentioned for hearing one month from the delivery of this judgment and the 2nd Respondent is to be noticed accordingly.*

3. *The Attorney General will consider pursuing an indictment of the 3rd Respondent for knowingly and voluntarily recording a fabricated statement of the Petitioner regarding his driver's license.*

4. *In recognition of the lack of effective self-governance with respect to superior officers as evidenced by the present case, the National Police Commission is to publicly set forth effective, practical procedures that provide for supervision of police officers of all ranks. Attention should be sought to enlist retired officers or other persons who have no personal benefits to gain through patronage of those with financial and political power to enforce such procedures. Further, the National Police Commission is to amend the existing scheme for promotions to explicitly counter political and financial influence, through the issuance of a set of specific, determined, pre-specified rules which specifically disallow the consideration of "recommendation" given by those not within the police force, or which have not been earned through specific duties of excellence as assessed by their superiors in the police force and with a provision to appeal against any partiality of superior officers. This issuance of such objective criteria and the resulting transparency in the promotion process, this Court believes, will legitimize the process in the eyes of Police Officers and will no doubt reduce the desire to deviate from a path of integrity and honour.*

5. *The National Police Commission is to create awareness and training programs that will sensitize officers to the importance of their duties. In light of the currently centralized nature of Police training, special focus is to be made to conduct such training programs outstation posts.*

6. *It is strongly suggested to the National Police Commission that a division within the Police Force-known in other jurisdictions as division of "internal affairs" – be created to solely investigate and speedily review suspicions of professional misconduct by members of any rank of the Police Force.*

Compensation in a total sum of Rs.100,000/= is to be paid by the 1st, 2nd and 3rd Respondents to the Petitioner. The 1st Respondent, the primary wrongdoer in this incident is ordered to personally pay sum of Rs.75,000/= and the balance is to be paid by the 2nd and 3rd Respondents in equal amounts.

The application is allowed. Costs to be paid to the Petitioner by the 1st, 2nd and 3rd Respondents in sum of Rs. 10,000/- each."

Even after 10 years, NPC is not in a position to implement this recommendation, SC (FR) no.224/2006.

The Detention centers in Sri Lanka

There are a large number of detention centers scattered in Sri Lanka, maintained by the Prisons Department, Department of Probation and Child care and Social Service Department. In addition there are a number of such centers, approved and not approved by the government.

1. Approximately about 60% of the detainees in the jails maintained by the Prison Department are Pre-trial detainees. Attention should be focused on these as it is the main reason for the congestion in prisons.

Attention should be given to the position of the prisoners who are sentenced to death. (Condemn prisoners).

Sri Lanka has not abolished the death penalty. But it does not execute it either. In practice court punishes with death penalty. As such there are a large number of prisoners in the death row or condemned prisoner wards that creates congestion in the prisons. On 21st May 2016 President gave amnesty to some fifty odd condemned prisoners, by changing death penalty to life imprisonment. This won't solve the problem.

The only solution is that, Government must agree to UN moratorium to abolish death penalty, and abolish death penalty.

No prison is maintained according to the minimum standards recommended by the United Nations. Not only that, they even do not execute the conditions laid down in the Prisons Ordinance of Sri Lanka.

In all the prisons the torturous, cruel, inhuman, degrading treatments and punishments prevails.

During the last regime all the evidence on the assassination of the prisoners were distorted and destroyed.

No disciplinary action is taken against the prison officials who torture the prisoners.

Eg.

In 2006 Ms. Nandani Herath was subjected to torture and cruel inhuman degrading treatment when she was remanded in Bogambara Prison. No disciplinary action taken against the female guards who were responsible. 10 years has elapsed Fundamental Rights case no FR/SC regarding this incident and it is still pending in the Supreme Court.

No office has paid any attention to the torturous, cruel, inhuman, degrading treatments and punishments imposed up on the persons in detention centers, rehabilitation centers, elderly homes, Child welfare centers and homes for the disabled maintained by the Department of Probation and Child Care, Department of Social Services, and private institutions.

If an abuse or violence takes place in any of these centers, action is limited only to give wide publicity using the media.

At this special occasion we submit detailed information on one detention center, hoping that there will be a proper investigation and provide a long lasting solution.

Ruhuna Ridiyagama State House of Detention-Hambanthota District.

This is maintained by the Ministry of Social Services of the Southern province. This center which is about 105 acres in extent is used to detain persons who are arrested under the Vagrant Ordinance of 1848 from all over Sri Lanka.

It is said that the center could hold 600 persons. Women, mothers with infant babies, children, girls and boys, men and also mentally sick or persons with psychiatric disorders are detained here. The persons who are detained cannot leave the center and have no right to be free.

Police after arresting women, men and beggars under the Vagrant ordinance, produce before a magistrate, without a proper and fair court case gets an order to detain them in this center.

Once the magistrate's order is received, the Prison Department sends them to this detaining center.

In this center, at present there are 70% mentally retarded patients. There are no proper medications, no trained nurses or health care attendants while untrained and unskilled laborers administer medicine and even saline.

From 2014 up to now postmortems were held for 30 persons. All these persons have died due to malnutrition, de-hydration and infections in the lower respiratory tract. In 2015 June, a ten year old girl was admitted to Hambantota District General hospital. The girl was mentally retarded and suffering from heart and lung diseases. She was arrested by the police with her mother under the Vagrants Ordinance and was sent to the house of detention. The hospital authorities made a request to the Southern province Probation Commissioner to transfer this child to a children's home. To comply with this request it took nearly two months. By that time the child died.

Corporal Punishment / Child Abuse in Schools

All forms of Corporal punishment were abolished by Act.No.23 Of 2005. By the Education Ministry circular No. ED/01/12/01/04/24 and dated 11th May 2005 all forms of punishments physical and psychological were abolished. And right to Education is guaranteed. If any principal or teacher violate this circular is subject to disciplinary actions and liable to prosecute under penal code. And it's a violation of Fundamental Right guaranteed by the constitution.

But unfortunately the Attorney General (AG) instructed all police stations through Senior Superintend of Police, Women and Children Bureau by a letter dated 7th July

2000, to refrain from taking legal action against principals and teachers who abuse students physically and psychologically, under Penal Code, without prior permission from him (AG). The letter was signed by the then Deputy Solicitor General Palitha Fernando for AG.

By using this letter as a tool, police refrained from taking legal action against the principals and teachers who assault and abuse their students. This letter violates the child rights and guaranteed impunity to perpetrators.

The so called corporal punishments, used to silence the students and parents to cover up all sorts of abuse, including sexual abuse, bribery, money grabbing, extortion and various forms of corruptions.

All reported cases of abuse show, all most all students, belonging to poor and marginalize families. Most of the students are unable to continue their studies, due to physical injuries and stress. The pressure exerted by the perpetrators and there allies, Education authorities, NCPA and some officers of HRC and Police was unbearable to the victim and the parents, who wants to seek justice which is a miracle.

**Cases reported to Janasansadaya between January 2015 and May 2016.
ON Torture and Other Cruel, Inhuman or Degrading Treatment or
Punishment**

01. U.E. Pasindu Hashan Kokila, Age 19 years

Taken to custody by the Habaraduwa police on 14.10.2015 and detained until 16.01.2016, subjected to torture and cruel, inhuman and degrading treatment and punishments. Under false charges kept in remand custody. He was released on bail on 19.01.2015. He has undergone treatments while in prison.

02. H.A. Gayan Harshana Wickramasinghe, Age 29 years.

He was taken to custody by Wadduwa police on 19.01.2015, holding guns to head and threatened to kill. The police assaulted inhumanly and produced him to the courts on 21.01.2015. He was released by the courts due to lack of evidence.

03. Kamal Srinath Peiris, Age 24 years.

Kamal Srinath Peiris was arrested by police on 11.01.2015 with his friend Kumudukantha Peiris on the Panadura beach, assaulted inhumanly and brought in and handed over to the police. Because of the assaults Kamal Srinath was in chronic pain and became very sick. He was taken to Panadura Base Hospital by about 7.00 p.m. in the night.

04. C.M.P.R. Pradeep Kumara, Age 34 years

On 21.01.2015 he was assaulted severely by two policemen of Payagala police while he was coming home with his seven year old daughter. When his cousin sister, Geethanjali tried to stop the assaults with the help of some persons in the neighborhood, the policemen assaulted Geethanjali. Afterwards, two persons, Simon and Sashi Maduranga, who tried to stop the assaulting were taken to custody with

the charges they were obstructing police duty. After filing a fabricated court case (No.3454), with false charges, the two persons were jailed.

05. Anagipura Sumith Kumara, Age 24 years.

On 02.02.2015 around 7.30 p.m. in the night, arrested by Matugama Police at Matugama town and was detained torturing till 04.02.2015. On 04.02.2015 was produced before the Magistrate of Matugama, taking to his home, requested approval to keep in remand custody, to be presented for an identification parade. When reported about torturing, the court has ordered to treat him while in prison.

06. Neranjan Padmalal Pigeru, Age 17 years.

As a result of assaulting and torturing by a group of teachers at St. John's College, Panadura, on 06.02.2015, was hospitalised for treatments. No action was taken by the Panadura Police on this assault case. The child protection authority also did not intervene. Exerting pressure on law officials, taking any future action was prevented.

07. A Chaminda Silva, Age 35 years.

Arrested by the Payagala police on 15.02.2015, tortured and was charged with fabricated false charges and imprisoned under remand custody.

08. Dilan Prabuddi, Age 32 years.

A pre trial detainee, in Kalutara Remand Prison, was assaulted and wounded on 20.01.2015 by a group of jail guards.

09. K. Gunapala, Age 60 years.

His land and building was forcefully acquired by Makiriella police since June 2003 and is being used for 13 years as a holiday resort.

10. M. Kapila Fernando, Age 41 years.

On 28.02.2012, assaulted by a group of police officers of Panadura south Police, forcefully taken his signature to a document and released on bail.

11. S. Inoka de Silva, Age 39 years.

Arrested by Panadura South Police on 15.02.2015 without showing any reasons, has produced before the courts with falsely fabricated charges. While keeping in police custody, kept starving, ill treated degradingly.

12. Bhanuka Priyashan Weerasinghe, Age 06 years

Assaulted physically by a woman teacher of Uva Tissapura primary school at Mapakada wewa, Mahiyangana and mentally traumatized as a result.

13. Nisansala Sandamali, Age 15 years.

On 04.03.2015 was arrested by Galle Police and handed over to the Children & Women Bureau Unit in the Police, where she was subjected to cruel, inhuman and degrading treatments. Later a complaint was made to the principal of the G/Sangamitta College where she studies. When she reported to the school, the Principal has subjected to cruel, inhuman ad degrading treatments and chased her out from the school denying her right to education. Up until now she was not allowed to attend the school.

14. W. Dharmendra Vijaya Kumara. Age 42 years.

Arrested by Mirihana police on 21.03.2015 and handed over to Mount Lavinia Police on 23.03.2015, where he was tortured and kept in custody for 08 days illegally.

15. W.D. Banduwathie, Age 59 years.

On 27.03.2015 summoned to the police giving a phone call, was subjected to cruel, inhuman and degrading treatments using filthy language, filed a fabricated case in the courts based on false charges.

16. Lalith Premakumara, Age 52 years.

On 02.04.2015 arrested and assaulted by the officer in charge and four policemen of the Modara Police post and was handed over to the Panadura South Police. Panadura South Police has kept him in custody until 24.04.2015, subjected to torture, cruel inhuman and degrading treatments, filed a fabricated case with false charges.

17. Amila Pushpakumara, Age 21 years.

On 31.05.2015 arrested by the Panadura South Police, brought to the police station, subjected to torture, cruel inhuman and degrading treatments and punishments, filed a fabricated case with false charges.

18. A.S. Udara Alwis, Age 21 years.

Arrested by the Panadura South Police on 11.06.2015, kept in custody until 13.06.2015, torture, cruel inhuman and degrading treatments and punishments. Filed a fabricated case with false charges and remanded. The prison has hospitalized for treatments. After 10 days he was released on bail.

19. Sandeepa Madushan Senadheera, Age 19 years.

Arrested by Panadura South Police on 11.06.2015 and kept in detention till 14.06.2015, subjected to torture, cruel inhuman and degrading treatments and punishments, produced to the courts and was sent to remand and hospitalized. On 23.06.2015 released on bail.

20. L.A. Daminda Sarath, Age 41 years.

On Wesak day in 2003, a group of policemen have come to his house, handcuffed him to the bed frame, and taken his wife to the nearby forest area. Since the wife got late, he managed to free himself and has gone in search of her. He could not find her and came back. In the late evening his wife was found. Wife was raped by the policemen in the forest and when he made a complaint, the police have taken steps to fabricate a case against him.

21. M. Ajmal Khan, Age 25 years, (Army soldier).

Arrested by the Policemen by the Thopur (Muttur) police post, filed a fabricated case charging he had hand grenades and illegal alcohol, produced to the courts and kept in protective custody. Later, he was discharged from all accusations as there was no evidence. As a result of these false charges he had to be in remand prison for 08 months and he lost his job in the army.

22. Indika Pushpakumara, Age 34 years.

The prison officers at Polonnaruwa prison have assaulted him unmercifully from time to time and as a result the bones of his left leg were broken. He was not given any treatment and as a result he had a severe mental trauma. The prison was compelled to send him to the National Mental Health Institute- Angoda, where he was treated for injuries and trauma. This ruthless cruelty has taken place either on 27th June or on a closer date.

23. Jayangi Umendra Perera, Age 13 years.

The Principal of the Mahinda Maha Vidyalaya, Alubomulla, Panadura, has sexually abused this girl child who studied on the 8th grade in that school. No legal or disciplinary action taken against the perpetrator.

24. Bandula de Silva, Age 44 years.

Arrested by the Kalutara, North police on 29.07.2015, taken to the police station, where he was subjected to torture, cruel inhuman, degrading treatments and punishments. Afterwards taken to the Magistrates official residence and taken an order to remand custody for 07 days.

25. A. Roshan Silva, Age 33 years.

On 07.07.2015 Kalutara South Police has arrested and handed over to the special unit managed by the office of the Superintendent of Police. Tortured for 14 days, and on 21.07.2015 produced to the courts and got an order to keep in protective custody till 04.08.2015.

26. Asanka Lakruwan, Age 32 years.

When reported to Ratnapura police to sign for a bail bond on 12.07.2015, arrested, subjected to torture, cruel inhuman and degrading treatments and punishments and produced to the courts on the following day and after the court order taken to

remand him. After bailed out on 03.08.2015 got admitted to the Ratnapura General Hospital and received treatments.

27. Anuruddika de Silva, Age 32 years.

Arrested by the Panadura special crime branch on 11.10.2015, subjected to torture, cruel inhuman and degrading treatments and punishments and handed over to Panadura South Police on 14.10.2015. On 15.10.2015 Panadura Police produced to the courts and jailed. On 16.10.2015 the prison has sent to the Panadura Hospital and treated. Again from 19.10.2015 to 22.10.2015 hospitalised and treated and afterwards, sent back to remand custody.

28. N.H. Harshana, Age 36 years.

While walking on the street, on 26.11.2015, without showing any reason, arrested and brought to the police and assaulted, inhumanly and degradingly ill treated.

29. Laxman Perera, Age 45 years.

Arrested on 06.11.2015 by the Moratumulla Police, subjected to torture and cruel, inhuman and degrading treatments and punishments. Following day released without any charges. As a result of the torture, got admitted to the Panadura Base Hospital and received treatments.

30. Saman Kumara, Age 33 years.

Arrested on 11.11.2015 by the Theeniyawala police after coming to his home and subjected to torture, cruel inhuman, degrading treatment and punishments. When his condition became critical, his relatives have taken him to Meegahatena rural hospital. As his health condition worsened, he was transferred to the General Hospital at Nagoda, Kalutara. He was in the hospital as an inpatient for four days and receiving treatments.

31. Chamila Sampath, Age 38 years.

On 30.10.2015 arrested by the Matugama police, kept until 03.11.2015, for four days, subjected to torture, cruel inhuman, degrading treatment and punishments. When produced to the courts, considering his health status, he was released on bail.

32. P. Ravindra Hashan, Age 16 years.

On 20.12.2015 he was asked to come to the Baduraliya Police station, taken into a room and was subjected to torture, cruel inhuman, degrading treatment and punishments. As a result he became badly sick and was admitted to General Hospital Nagoda, Kalutara. On 01.01.2016 after examined by the Judicial Medical Officer, he was released.

33. S.D. Prasanna Perera, Age 44 years.

On 25.12.2015 he was arrested by Baduraliya Police after coming to his home, taken to the police station, locked up in a cell from morning till evening and subjected to,

cruel inhuman, degrading treatments. In the evening he was released on police bail after taking his signature to a statement by force. He was asked to be present in courts on 8th January 2016. Later he came to know that he was charged for brewing illicit liquor.

34. Nishantha Bandara Dissanayake, Age 24 years.

Arrested on 02.01.2016 and was detained until 05.01.2016. During this period in custody, he was subjected to torture, cruel inhuman, degrading treatment and punishments. After notifying the National Police Commission, he was handed over to Moragahahena Police and was produced to Horana Magistrate courts, and was sent to remand custody.

35. Athula Priyantha, Age 39 years.

Arrested by Anguruwathota police on 26.12.2015 while at home, kept in police custody till 8.00 p.m., charged falsely for having illicit liquor, ordered to be in courts and released on police bail.

36. Poojy Shashindra Francis, Age 21 years.

Arrested by Anguruwathota police on 11.01.2016, taken to the police station and was subjected to torture, cruel inhuman, degrading treatment and punishments. He was produced to the courts on 12.01.2016 and was sent to remand custody until 14.01.2016 and was released on bail on 14.01.2016.

37. Viduwansha Gunarathne, Age 23 years.

Arrested by Panadura South police on 26.01.2016, taken to the police station and was subjected to torture, cruel inhuman, degrading treatment and punishments. He was accused of keeping Cannabis with him. Due to pressure accepted he committed this offense. He paid the fine and came home. But was fallen sick due to torture, cruel inhuman, degrading treatment and punishments he undergone and was admitted to Panadura Base hospital and was treated.

38. Sumedha Sampath, Age 27 years.

A prisoner of Kalutara remand prison, his wife has complained on 02.02.2016 to the Human Rights Commission, Inspector General of Police and Commissioner General Prisons, that he was subjected to torture, cruel inhuman, degrading treatment and punishments.

39. A.M. Nauffer, Age 59 years.

Arrested by the Moratuwa police on 30.01.2016, brought to the police station and subjected to torture, cruel inhuman, degrading treatment and punishments. Following day he was produced before the courts and the court has taken steps to release him on bail.

40. U.D. Priyantha Rodrigo, Age 34 years.

Assaulted and taken into custody on 04.02.2016 by the Morontuduwa police and handed over to Wadduwa police. Wadduwa police has taken his signature to a statement by force and released him on police bail. Following day he has come to the Panadura Hospital, shown his injuries and stated he was assaulted by police and got treated.

41. M.S.M. Safras, Age 29 years.

Arrested by the Aluthgama police on 08.06.2016, brought to the police station, and was subjected to torture, cruel inhuman, degrading treatment and punishments, charged under the Firearms Ordinance and imprisoned. The prison has hospitalised him and treated for injuries. After 5 months he was able to get bailed out.

42. Thiyunu Nuwan Gunatillake, Age 11 years.

On 17th Feb. 2016 A group of school teachers of Sri Sumangala boy's school, Panadura, took him out by force during school hours, cut his hair, and abused him. No legal or disciplinary actions are taken.

43. T.W. Lasantha Kumara, Age 38 years.

Arrested by Padukka police on 2nd March 2016, subjected to torture, cruel inhuman, degrading treatment and punishments, dragged on the road nearly 200 meters, and put into a three wheeler taxi and taken to the police station. Afterwards, cleaned the injuries, changed his banyan dress and was taken to Homagama Base hospital. The police officers told the medical officer that he has fallen while trying to run and taken a statement without allowing a medical examination. Following day produced to Avissawella magistrate courts and at that time he has complained about torturing. After released on bail, has come to Homagama Base hospital and got admitted, and stayed for five days getting treatments. Afterwards, the police have arrested him again coming to his home on 03.04.2016 kept him for 3 days, until 05.04.2016 and produced to Avissawella magistrate courts on fabricated charges. During his detainment for three days he was pressurized to withdraw his complaints made to the Human Rights Commission and plead guilty for the fabricated charges. When this was revealed to the courts, he was set out on bail.

44. W.M. Sirignana, Age 41 years.

On 10.03.2016, Padukka police has come to his work place, and assaulted him. When he was unconscious he was admitted to Homagama Base Hospital, where he has complained to the medical officers and hospital police post that he was assaulted.

45. Viduranga de Silva, Age 28 years.

Arrested on 29.03.2016 by Kalutara North police and subjected to tortured. On 29.03.2016 produced to the Kalutara Magistrate's court, complained he was assaulted and tortured. The court ordered to hospitalize him.

46. Madhishanka Silva, Age 25 years.

Detained in the Special criminal investigation branch in the Kalutara Police Superintendents office and was subjected to torture, cruel inhuman and degrading treatment and punishments. He was arrested by the Welipenna police on 25.03.2016 and handed over to the Special criminal investigation branch. As a result of the torturing by this branch, Welipenna police had to admit him to the Nagoda General Hospital and provide treatments.

47. R. Ajith Kumara, Age 16 years.

On 19.03.2016 Thebuwana police made this child to come to the police, arrested and subjected to torture cruel, inhuman and degrading treatment and produced before the courts that ordered to send him to a child care home. The child had to take treatments from Kalutara, Nagoda General Hospital and Panadura Base Hospital for the assaults. The medical officers have also ascertained that he is suffering from Post Traumatic Stress Disorder.

48. L. Sithum Devaka Peiris, Age 19 years.

Arrested by the Panadura South Police on 10.04.2016 and detained until 15.04.2016, subjected to torture cruel, inhuman and degrading treatments and punishments.

49. Chamila Kumara Peiris, Age 27 years.

Arrested by the Panadura South police on 01.04.2016 and subjected to torture, cruel inhuman and degrading treatment and punishments. On 05.04.2016 produced to the courts with fabricated case with false charges and was sent to remand custody.

50. T. Sanjaya, Age 27 years.

On 04.04.2016, Donangoda police have shot him when travelling in a three wheeler taxi. The charge made was that he was trying to evade arrest and was fleeing. After the three wheeler stopped, police has assaulted him and his brother (Charuka, age 21 years). They both have escaped death miraculously.

51. J.V. Nishantha, Age 38 years.

On 08.04.2016, Panadura South police has informed that there is a warrant for him, taken into custody, kept for about three hours and subjected to torture, cruel inhuman and degrading treatment and punishments.

52. K.L. Dayananda, Age 46 years.

On 27.03.2016 he was arrested by Padukka police and brought him to the police station and brought in front of the Officer in Charge (OIC). The OIC has assaulted him and asked him to kneel down in front of him and kept in that position. Later, he was produced before the Homagama Magistrate's Court with a fabricated case. After that he was arrested again on 03.04.2016, kept in custody until the following day and produced before the Avissawella courts with a fabricated case and false charges.

53. Shake Fareed Mohamed Fazi: Arrested by Wellavidiya Police, tortured, produced to the Maligakanda courts and imprisoned. Court case No.26500/15, Prisoner no.8268, Welikada Prison. Examined by Judicial Medical Officer (JMO), Mr. Mohamed Haroon.

54. Kaludurage Shiran Buddika: Arrested by Avissawella police, produced to Homagama Magistrate and remanded. Court case: AR 618/15

55. Mohonir Mohamed Saleem alias Nihal: Arrested by Maradana police and tortured and produced before Homagama Magistrate and remanded. Court case no. B 265/15. Examined by Judicial Medical Officer, Ms. D.I.L. Ratnayake.

56. Punchi Banda Herathlage Vishwa Warnaka: Arrested by Wellampitiya police, tortured and produced before the Colombo Magistrate's Court No.02. Remanded in Magazine prison. Court case No:40106/2. Examined by Judicial Medical Officer, Mr. Sameera A Gunawardane

57. Nupe Hewage Chaminda Pradeep Kumara: Arrested by Borella police, tortured and produced before Maligakanda Magistrate Court 02 and imprisoned in Magazine prison. Court case No: 26274/15. Examined by Judicial Medical Officer, Mr. U.M.M. Aleef.

58. Desundaram Chandrasekaram: Arrested by the Harbour police, tortured and produced before Maligakanda Magistrate's court 02 and was imprisoned at Welikada prisons. Examined by Judicial Medical Officer, Ms. D.I.L Ratnayake

NOTE:

Complaints have been made regarding all the above mentioned cases to the Human Rights Commission, National Police Commission, Inspector General of Police. Complaints regarding Child related cases were made to National Child Protection Authority. Some of these cases reported have been registered by the Human Rights Commission and IGP and informed that they will start investigations. All these are in the primary stage.

These incidents are connected to 47 Police Stations. Although it is not reported to us, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments prevail in all the Police stations in the country.

The names of the 47 Police stations are given in Table I

Table I
The names of the 47 Police stations

DISTRICT	Police station
Galle District	Habaraduwa Police
Kalutara District	Wadduwa Police; Special crime branch of Wadduwa Police; Panadura South Police; Payagala Police; Anguruwatota Police; Matugama Police; Makiriella Police; Beruwala Police; Theeniyawala Police; Baduraliya Police; Dodangoda Police; Kalutara North Police; Kalutara South Police; Panadura Special crime branch; Thebuwana Police; Aluthgama Police; Special crime investigation unit at the Kalutara Superintendent of Police; Morontuduwa Police.
Colombo District	Mirihana Police; Moratuwa-Modara police post; Moratumulla Police; Moratuwa Police; Padukka Police; Wellavidiya Police; Avissawella Police; Maradana Police; Borella Police; Wellampitiya Police; and Harbour Police.
Trincomalee District	Thopur Police post
Ratnapura district	Ratnapura Police

We do hereby certify the above stated incidents are true and the information provided is true and correct.

Proposals to materialize the Right to be Free from Torture, cruel inhuman, degrading treatment and punishments in Sri Lanka.

1. The Supreme Court and The Government should take steps and ensure that all Magistrates should comply and adhere to the Supreme Court & Court of Appeal judgments given against the Police illegal acts regarding arrest, detaining, torture, fabricating charges, remanding and bail.
2. The Sri Lanka Human Rights commission (SLHRC) should give priority to setup and effective mechanism to receive complaints and act swiftly to stop torture and guarantee the protection and rights of the persons arrested and detained by the Police. A 24hrs; emergency call center (Hot Line) should be established as mentioned above.

3. Human Rights Commission should be given right to access and inspect any place of detention at any time without prior permission of head of the department. Attorney General should instruct *Inspector General of Police to withdrew the circular bearing No.1796/2004 dated 27.09. 2004*
4. The letter issued by the then Deputy Solicitor General Palitha Fernando for AG. instructing all police stations through Senior Superintend of Police, Women and Children Bureau by an letter dated 7th July 2000, to refrain from taking legal action against principals and teachers who abuse students physically and psychologically, under Penal Code, without prior permission **should be withdrew forthwith**. A new instruction should send to all Police stations to take prompt legal action against principals and teachers who abuse students physically and psychologically, under Penal Code.
5. The Sri Lanka Police should admit the fact that, Torture, cruel inhuman, degrading and punishments are continuing in all Police Stations and Units and should declare publicly by a statement, that Torture, cruel inhuman, degrading treatment is a punishable crime. All Police officers should refrain from administering Torture, cruel inhuman, degrading treatment to persons taken into custody. Officers in charge of all Police stations bear responsibility to criminal acts of subordinate officers.
6. This message should be made public by all media, print and electronic, and by exhibiting posters in all Government Institutions.
7. Police should implement an effective complaint receiving mechanism to receive complaints and act swiftly to them. The Police Special Investigating Unit should be strengthen to investigate and prosecute allegations comes under Torture Prevention Act, by adequate recourses, Human, financial and technical.
8. Government must implement public awareness campaigns using state media apparatus to empower masses regarding Fundamental Rights guaranteed by the constitution and its International obligations to protect the Rights of the People.

On behalf JANSANSADAYA
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