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📍 No: 288/135, Jayawardana Place, Baseline Road, Colombo - 09, Sri Lanka.

☎ +94 112 669100 📧 slcattorture@gmail.com 🌐 www.slcat.org

Inspector general of Police,

Police Headquarters,

Colombo 01.

29/06/2021

Prevent custodial deaths and arbitrary detention of detainees

We, the undersigned, as citizens of Sri Lanka and members of civil society, express grave concern regarding the actions of the police during the pandemic in Sri Lanka.

We are aware that this is a time of great stress and uncertainty and that the police and other government authorities require the cooperation of the public to ensure that the corona virus does not spread. However, even during emergencies, and even when citizens break the law, their fundamental rights should not be violated. These fundamental rights include the absolute protection from torture, cruel, inhuman and degrading punishment, the freedom of thought and conscience.

We note reports of several incidents of custodial violations, such as arbitrary arrest and detention, custodial deaths and shoot-outs with suspects that have resulted in deaths. Particularly during a pandemic, when the rights of citizens are restricted due to health reasons such incidents can cause public anxiety and unrest. While being mindful of the stress under which police officers are placed, that can never be justification for the violation of constitutionally protected rights of citizens.

Due to the lack of clarity of government regulations and decrees, the public when attempting to fulfil their basic needs, such as buy provisions, are being subjected to ill treatment by the police, as evidenced by video footage. While the police should take action against those that violate the law, this should not be arbitrary nor dependent on the identity or social status of the person, but should be fair and equitable. Further, with due regard to the pandemic, police action should not worsen the already dire economic conditions being experienced by many people. For instance, quarantine measures should not be used as a form of incarceration and punishment but only to achieve specific objective of preventing the spread of infectious diseases.

The police press release dated June 8, 2021 is also cause for grave concern as it has the potential to be used to stifle dissent and freedom of expression in the guise of stopping the spread of fake news. It refers to provisions of the law that contain ill-defined provisions, on the basis of which persons can be arrested and detained without bail. We reiterate that any restrictions on the human rights of citizens must not only be prescribed by law but should be in accordance with the Constitution, proportionate and time bound and should not be discriminatory.



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Abuse of power by state entities, the arbitrary use of the law only against the weak and vulnerable in society and the denial of protection for the weak and vulnerable leads to the rapid erosion of public confidence in the government and its agencies such as the police.

Examples of arbitrary application of the law include the participation of the police in the violation of health regulations, such as in the birthday party of the Mayor of Kurunegala and the funeral of the mother of Rev Iththekanda Saddhatissa Thero.

We have received disturbing reports of the police not accepting complaints of women experiencing violence at home, which compounds the violations experienced by women.

There have been instances of arrests are made prior to a complete investigation, such as that of Yasiru Kuruwitage Mathew, unmindful of the repercussions that such an arrest will have on that the detainee and family members, particularly when laws such as the Prevention of Terrorism Act (PTA) and the ICCPR Act are used.

We draw your attention to the fact that bail is the norm, not the exception and in keeping with the spirit and intent of the law urge you to give police bail where it is available and not object to bail where the offence is bailable and the exceptions stipulated in the Bail Act do not apply.

In the interests of the protection of due process rights, we support the call of the Bar Association of Sri Lanka to ensure that lawyers are given access to detainees and are able to have confidential consultations without being monitored by a police officer.

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To ensure Sri Lankan citizens are able to exercise and enjoy their Constitutionally guaranteed rights, we call upon the police to:

- Adhere to the Constitution and relevant laws and ensure that the law is not implemented in an arbitrary or discriminatory manner.
- Immediately investigate incidents of custodial violations and make the findings of the inquiry's public.
- Ensure police accept complaints made by the public regarding violations, especially violations by public officers
- Ensure police promptly and professionally respond to sexual and gender-based violence, including domestic violence.
- Provide guidelines to the police on how to engage with the community in relation to pandemic related issues, such as violations of health guidelines.
- Communicate changes to regulations concerning movement immediately and in a clear manner to the public in both Sinhala and Tamil.
- Establish a Hotline that citizens can use to obtain information regarding pandemic related restrictions.



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Thank you,

Signed

Civil Society Organizations

1. Anuradhapura Citizen's Committee -
2. Center for Policy Alternative
3. Centre for Human Rights and Development
4. Dabindu Collective
5. Human Rights Office Kandy
6. Human Rights First Aid Centre Hambanthota
7. Human Rights Shelter
8. Human Rights First Aid Centre Galle
9. INFORM Documentation Center
10. Law and Society Trust
11. National Fisheries Solidarity
12. National Peace Council
13. National Collaboration Development Foundation
14. Red Flag Front - Deniyaye
15. Right to Life Human Rights Centre
16. Rights Now Collective for Democracy
17. Rule of Law Forum
18. Rural Womans Front
19. Suya Shakthi foundation
20. Uva Shakthi Foundation