

POLICE OVERSIGHT BY THE COURTS
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1.1 Judiciary

Separation of powers and independence of the judiciary as an important ingredient of the same are the hallmarks of a democratic society. All the countries in the Commonwealth have a judiciary but it is not independent in all these countries. This directly impacts on whether it can be an effective oversight agency with respect to the police organization. In countries like Maldives, the judiciary is subject to executive control. The U.S. Department of State Country Reports on Human Rights Practices 2004 observes with respect to Maldives that “the judiciary is subject to executive influence. In addition to his authority to review High Court decisions, the President influences the judiciary through his power to appoint and dismiss judges, all of whom serve at his pleasure and are not subject to confirmation by the Majlis.”¹

1.1.1 Compensations and punishments through court judgments

Where judiciary is independent, it exercises oversight over the police through various mechanisms. The most common method is through its judgments indicting individual officers and the organizations for abuse of legitimate powers.

The judiciary in many Commonwealth countries awards huge compensation in civil cases and imprisonment and fines in criminal cases against the police. The financial costs of abuse are high in countries like South Africa where between 1995 and 1998, the police service had to pay out over R50 million because of the 1,489 civil claims which had been laid against police members who used excessive force.² This is a large amount of money which need not have been used for this purpose were the police more accountable for their actions.

SENT TO JAIL FOR ABUSE OF POWERS

Recently, in 2003, the Colombo High Court sentenced five people, including two police officers, to death for their involvement in the massacre of 27 Tamil inmates at a detention centre in Bindunuwewa in central Sri Lanka³. The Court observed: "If not for the complicity of police officers, this would have been avoided.... When the victims went running to policemen seeking protection, they were fired at by the police⁴." In this cases in October 2000, more than 25 young Tamils at a rehabilitation center in Bindunuwewa near Bandarawela in the south-central part of the island were attacked and killed by a Singhalese mob in the presence of guards. There were allegations that the police was complicit in this act and while many policemen turned a blind eye to the atrocities committed by the mob, other actively assisted the mob in the massacres.

In December 2000, the Kuala Lumpur Sessions Court in Malaysia sentenced police constable Tony Beliang to eight years' jail for manslaughter in shooting and killing Dr Tai Eng Teck, who was seated in his car with a girl one night in September 1999. The victim allegedly tried to flee after being in a compromising position. The judge said the policeman's intention to cause death was evident, as he had fired the shots non-stop without knowing who or how many people were in the car and what they were doing. The victim's friend, a staff nurse, had testified that they panicked when they heard a loud knock on the windscreen of the car, and heard angry shouts. The victim decided to drive away, fearing that the people were criminals, robbers or anti-vice officers. The High Court acquitted the policeman on appeal, with the judge stating that the police should be given every encouragement to book criminals and, if necessary, should have the right to shoot in order to enforce law and order. However, the Court of Appeal then set aside the high court decision and affirmed the session court's sentence⁵.

In the Southern African region, at times, civil suits may be made against the police or, when a suspicious death in police custody has occurred, the deceased persons' family may request that a magistrate hold an inquest.⁶ This is, however, usually a long process. In many cases, during the trial of an accused person, for instance, incidences of police abuse of that person may be revealed and subsequently investigated especially in cases where a confession was coerced.⁷

1.1.2 Strong statements leading to disciplinary action

It is not necessary that courts exercise oversight in cases brought against the individual police officers but in many cases where the courts find that police had not investigated the cases properly, they may pass strictures against the police. In certain cases, they may suggest that police department to take appropriate disciplinary action against the concerned official(s). For example recently in India in the aftermath of anti-Muslim riots in Gujarat and police complicity in deliberately fudging complaints and records leading to acquittals in many cases and even lack of prosecution in even more cases, the Supreme Court of India ordered reinvestigation in many cases and even retrial in an important case. In its judgment, the court severely indicts the Gujarat police and even the Provincial Government of Gujarat.

1.1.3 Courts force the police to follow proper procedure

The court system also ensures that the police have followed the correct procedures. In many parts of the Commonwealth including South Asia and Africa, courts throw out cases where confessions or evidence is obtained through torture. Many courts, in for example Malawi, Swaziland and Zambia, will reject a confession or evidence that is proven to have been obtained due to torture or coercion.⁸

CASES THROWN OUT IN UK IF PROCEDURE NOT FOLLOWED

In U.K., failure to follow rules established by Police and Criminal Evidence Act 1984 (PACE) can and does result in failures to secure convictions because the courts increasingly use exclusionary rules to render inadmissible any evidence which has not been fairly obtained. The application of the principle of the 'fruits of the poisoned tree' means that entire cases can fail when the rules have not been followed, with important repercussions for police effectiveness.

1.1.4 Judges rules in Southern Africa

Mauritius and Zambia have Judges Rules, which regulate the way in which statements are recorded and presented as evidence in court. Zambia's Judges Rules prohibits the use of a confession as evidence when the confession was as a result of torture, threats or any influence.⁹ The Judges Rules also provide the police with the correct procedure to deal with arrested persons such as informing the detained person of his / her rights and allowing him / her legal counsel.¹⁰

Botswana is the only country within the Southern African Development Community which has a Juge D'instruction system.¹¹ This system not only protects the rights of detainees by ensuring that they are treated fairly but it is also used by lawyers to ensure that a statement given to

the police was done so legally. In other words, the Juge D'instruction system protects the right of a detained person to use the services of a lawyer while that person *voluntarily* makes a statement.¹²

1.1.5 Exposition of key concepts

In many jurisdictions, the courts are required to interpret provisions of a give law governing the police and explain particular concepts. The idea of “police independence” is one such concept that has also had an impact on conceptions of police accountability. This concept has largely been elucidated by judges through case law during the Twentieth Century, and has been the subject of a great deal of debate as to its content, applicability and implications within the Commonwealth context. One of the more expansive, influential and oft-cited expositions of the “police independence” doctrine (that of the English judge, Lord Denning, in a 1968 judgment in the case of *R. v. Metropolitan Police Commissioner, ex parte Blackburn*) suggested that with respect to decisions regarding the enforcement of the law, chief constables in England were not only “independent of the executive”, in terms of being immune from political direction¹³, but also “answerable to the law and to the law alone”.

1.1.6 Activist judiciary in South Asia laying down policy guidelines for police

In Bangladesh the lower judiciary is a part of the executive and thus not independent. However, the higher judiciary has passed many strictures against the police in relevant cases brought before it and recently, in 2003 the High Court has laid down guidelines for the police to use its powers of arrest under 54 of the Criminal Procedure Code¹⁴, one of the most abused provisions of law. Of the many guidelines laid down by the courts, the most important are the ones that mandate the disclosure of identity by the arresting police official, recording of reasons for arrest in a given register, furnishing reasons of arrest to the person arrested within three hours of the arrest, informing the relatives/friends of the arrested person about the arrest, allowing the detainee to consult a lawyer. The judgement also requires any custodial death to be reported to the magistrate for a magisterial inquiry. The court, relying on Indian judgements, also held that it is empowered to grant compensation in cases of torture¹⁵.

In India, once again the higher judiciary has been very active in passing guidelines to ensure police accountability. In the absence of legislation, these are the law of the land and the police is mandated to abide by these guidelines. These include refraining from handcuffing a person without permission so that people are not humiliated for political purposes¹⁶. Once again guidelines similar to those in Bangladesh had been passed in India much earlier to ensure that the police do not abuse

their powers of arrest and torture suspects¹⁷. To ensure that women are not harassed unnecessarily, the courts have held that only women police personnel arrest women save in exceptional cases. In fact, Supreme Court has laid down guidelines for the police on how to treat victims of sexual abuse and what support structure to be provided to such victims¹⁸. Similarly, the Supreme Court of India has held that it has the powers to compensate the victims of torture and the State is liable for actions of police officials despite the fact that India has made reservations to section 9 of the ICCPR, which require compensation to be given in cases of torture¹⁹.

1.1.7 Problems in ensuring effective oversight through judiciary

Apart from the *lack of independence* of judiciary in certain countries, there are certain problems that are common to the region that impact upon the efficacy of judiciary as an accountability mechanism.

1.1.7.1 Corruption

Corruption in the judiciary in most of the developing countries in the Commonwealth is one of the major factors that impacts upon the efficacy of the judiciary as an oversight mechanism.

1.1.7.2 Extremely long time take to get the cases decided

The *extraordinary long period* taken to get a case decided is another factor that effects efficient working of the judiciary as a regular watchdog for the police.

EXTREMELY LONG PERIODS TO GET A CASE DECIDED

In India in 1987, the members of the Provincial Armed Constabulary (PAC) in the state of Uttar Pradesh picked hundreds of Muslim men and killed over forty at point blank range. In this case of 1987, the government ordered an inquiry by the Criminal Investigation Department (CID) after much public pressure and outcry and the CID submitted its report in 1994, seven years after the incident. The report indicted 66 police personnel. The report was never made public and the Uttar Pradesh government filed cases against 19 policemen in 1996 without assigning any reasons why the others were not sent for trial. With respect to the 19 policemen sent up for trial, not even one accused was arrested and produced before the Court even after issuance of bailable and even non-bailable warrants by the Chief Judicial Magistrate (CJM), although they were all along serving members of the PAC whose posting and home addresses were known.

On 16 Feb. 1999, the CJM had also ordered for proceedings to be taken for declaring the accused as absconders and for confiscation of their properties²⁰. After much public pressure and media attention, things began to move and 16

of the 19 accused PAC men surrendered in groups in the June 2000. However, they were allowed bail by District Judge on the ground that there was no direct evidence against them and that being members of the PAC there was no chance of their absconding. Still, no charges were framed in this case till September 2002 when the case was transferred from Uttar Pradesh to Delhi by the Supreme Court on a petition by victims alleging that the “accused were influential personnel of the PAC and had been causing delays even in the framing of the charges for the past five years²¹”. No charges had been framed in the case till the end of 2003 even in the Delhi courts and the relatives of the deceased have already waited 16 years.

1.1.7.3 Failure of the executive to implement judicial decisions

Further, the failure of police/government to implement judicial decisions also weakens the judiciary as an accountability mechanism. The courts may pass decision to inform a person about the reasons of his/her arrest, or to inform his/her family about the arrest, or disclose the identity of the arresting person but the police usually fail to heed these guidelines with impunity. Similarly, in many countries disciplinary action not taken even when police officials are found guilty of misconduct during the course of a trial. So the Supreme Court in Sri Lanka might find that the police tortured a person and award him/her compensation but the police does not usually take departmental action against such official who committed the act of torture unless there is public pressure.

1.1.7.4 Limitation period

In almost all the countries, there is a limitation period within which an aggrieved person or a representative can approach the court. However, countries like Sri Lanka prescribe an extremely short period of one month immediately after the violation of the right to approach the court for redress. Such short period effectively deny the poor and the powerless the right to access courts.

1.1.7.5 Legal impunity curtailing the powers of the courts in certain cases

In many parts of the Commonwealth, the legislature protects the police from judicial oversight by providing that they cannot be prosecuted for criminal offences without the permission of the executive. In countries like India and Bangladesh, the public servants including police officials enjoy considerable protection from prosecution. Section 197 of the Criminal Procedure Code of India provides that they cannot be prosecuted without prior permission from the government – either state or central government – which employs them. In case of formal

emergency where the state is under the Center and the President's rule is imposed, such permission has to be sought from the Central government. It is usually very difficult to get the permission for prosecution.

In many cases special or emergency laws provide that no civil claims or criminal prosecutions will lie against the police organization and the officials for act done under the specific laws. The anti-terror laws in India have always had such inbuilt indemnity clauses barring any civil or criminal cases against police for acts done in good faith under the given law. In Bangladesh, the Special Powers Act providing excessive powers of prolonged arrest and detention without charges provides immunity from prosecution or other legal proceedings for anything done in good faith under this Act²². In Tanzania a number of statutes confer a blanket immunity against civil and / or criminal liability for acts done pursuant to those Acts. *Details will be available in due course.*

Many countries in resort to passing laws indemnifying acts committed by security forces. Sri Lanka, in the past, passed a law indemnifying the police or other security forces for any act done in good faith to restore law and order between 1st August 1977 and December 1988²³. More recently, in February 2003, the Bangladesh Parliament passed the Joint Drive Indemnity Act, 2003 indemnifying the members of the joint forces (including the police) "designated to carry out responsibilities in aid of civil administration during the period between 16 October 2002 and 9 January 2003" for "arrests, searches, interrogation and [other] steps taken" during this period. The only exception is the jurisdiction of the courts and tribunals constituted under laws governing the security forces and their members²⁴.

1.2 Other mechanisms of oversight in the criminal justice system

The criminal justice system may be used, and have been used, in the Commonwealth countries to expose incidences of torture or police brutality through for example case law. In Mauritius, for example, a judicial enquiry has to take place if a person died whilst in police custody or in prison.²⁵ The findings of such enquiries would then go to the Director of Public Prosecution who has authority over all prosecutions.²⁶ In this way a case of police torture or abuse may find its way into the court system and so result in the prosecution of guilty parties.

1.2.1 Prosecutorial System

The Director of Public Prosecutions plays an important role in prosecuting individual police officers guilty of abuse and torture in many countries in the Commonwealth. The Director may decide to prosecute after receiving the findings of an independent police complaints system, such as in South Africa and Swaziland.

The problem in many Commonwealth countries is that the police is the prosecuting agency and as such is unable to function as an independent oversight mechanism. In Uganda, police officers are a category of public prosecutors and by far this is the largest category of public prosecutors. They prosecute most of the cases in magistrate courts. Police prosecutors can appear in any magistrate courts, but they do not appear before the High Court. Only prosecutors of or above the rank of Assistant Inspector of Police have been appointed public prosecutors, generally. Police officers of lower ranks may be appointed prosecutors on individual basis²⁷. The vast majority of cases are prosecuted by the police through the Magistrates Courts and unsupervised by any other prosecutor or prosecuting agency. However more serious offences do require the consent of the DPP. In deciding whether or not to prosecute any person, the Director of Public Prosecutions (DPP), and the Police have virtually unfettered discretion. This discretion must be exercised judicially but there are no guidelines on what that means.

UNFETTERED POWERS OF THE DPP IN JAMAICA

In Jamaica, there are strong allegations against the DPP as being biased in favour of the police. In her Mission to Jamaica, The Special Rapporteur on Extrajudicial, summary or arbitrary execution records the case of Patrick Genius that demonstrates how the DPP may misuse his/her powers. She notes:

“Eyewitness claimed that Patrick Genius was shot with his hands in the air after police, traveling in an unmarked car, detained him on 13 December 1999 in August Town, Kingston. Patrick Genius, a 33-year-old welder, stall-holder and father of three children, was shot by police in the head at close range. Autopsy findings showed two gunshot wounds to the leg and three shots to the head - two to the back of the head. Other independent sources have concluded that the killing bore the classic hallmarks of execution, its pattern suggesting incapacitation followed by killing.... the information ...received during her visit does indicate that the police had indeed used excessive use of force.

According to the information received by the Special Rapporteur, on 29 May 2001, a coroner’s inquest jury returned a verdict that the police involved in the death of Patrick Genius should be held criminally responsible. The case was transferred to the DPP, who later decided not to press charges. Subsequently, the mother of Patrick Genius, Leonie Marshall, petitioned the Supreme Court for judicial review of the decision of the DPP. On 2 May 2003 the Supreme Court declined to direct the DPP to account for his decision not to prosecute the

accused police officers. ***The Court ruled that the DPP was neither required to give reasons for his decision nor was he under an obligation to review his decision.***²⁸ (emphasis added)

Lack of resources and corruption are other major factors that render the prosecutorial system ineffective as an oversight mechanism. In the Caribbean, one of the major constraints on the real independence of the office of the Director of Public Prosecutions (DPP) has been the practice of appointing DPPs on contract subject to renewals or to extensions despite the constitutions mandating a secure tenure for the DPP.

1.2.2 Attorney-General's Department

In some jurisdictions in the Commonwealth, Attorney generals have special powers/units to deal with police misconduct. In Cyprus, for example, “By decision of the Council of Ministers dated 3 October 1996, the power of the council of Ministers to appoint investigators for purposes of inquiry into the offences and crimes committed by state officials has been delegated to the Attorney-General. The latter may receive written complaints accusing members of the police of having committed an offence. This is a positive change as the Attorney-General is better placed to respond promptly to complaints of this type.²⁹” The Office of the Attorney General of the Republic is immediately informed in cases of alleged ill-treatment of persons by members of the Police, for the necessary inquiries. The latter has the right to appoint criminal investigators when a written complaint for ill-treatment is submitted against the Police. “At all events, the Council of Ministers retains the parallel authority to appoint investigators. They have the same powers as criminal police investigators when enquiring into offences. Complaints may be submitted not only by victims but also by lawyers, representative or human rights associations, journalists or members of parliament. The findings of the inquiry are presented to the Attorney General who can decide where appropriate to prosecute.³⁰”

In Sri Lanka, the Attorney General's Department has at least two different units to supervise the investigation and institute criminal proceedings against the perpetrators in cases of disappearances³¹ and torture³². The task of the Missing Persons Commissions Unit was to consider the institution of criminal proceedings against the perpetrators. Similarly the Prosecution of Torture Perpetrators Unit (PTPU) was established in the Attorney General's Department to function symbiotically with the Criminal Investigation Department (CID) of the police in the prosecution of torturers. The PTPU monitors the progress and advises on the conduct of investigations of the CID pertaining allegations of torture.

In Sri Lanka, the Attorney General's department has not been very successful in its functions of oversight over the police. In its report to the Committee Against Torture, Sri Lankan government states "The Prosecution of Torture Perpetrators Unit [PTPU] of the Attorney-General's Department has up to now filed indictments with the High Court regarding 40 cases under Torture Act 22 of 1994 against police officers who perpetrated torture³³." Kishali Pinto Jayawardene, an activist lawyer maintains that there is no separate PTPU dealing with torture cases, physically in existence in the department and in fact it is only an administrative convenience with neither specially assigned staff nor separate premises. The AHRC, a regional NGO working on Sri Lanka, observes: "The performance of the AG's department on this matter is a serious disappointment to family members of missing persons and local and international human rights organizations. The fact that there has been little progress in prosecution almost a decade after these horrendous crimes were committed is testimony of the inability and unwillingness of the AG's department to effectively and efficiently deal with the issue.... More specifically, there is political unwillingness to deal with senior police, military and political figures who were responsible for causing these disappearances³⁴." Clearly, filing indictments in the High Court with respect to merely 40 cases under the Torture Act speaks volumes about the functioning of the PTPU. Till 2003, not even one person had been convicted under the Torture Act and there have been two convictions in 2004.

END NOTES

¹It must be noted that after much international pressure from the European Union and countries like the UK, the President of Maldives has recently decided to enter into the arena of political reforms and in fact certain constitutional amendments will soon be proposed to the constitution to enlarge the scope of fundamental rights and to ensure the independence of the judiciary.

² Bruce, D. (2002) "South Africa", in N. Mwanajiti, P. Mhlanga, M. Sifuniso, Y. Nachali-Kambikambi, M. Muuba, and M. Mwananyanda (eds.), *Police Brutality in Southern Africa – A Human Rights Perspective*, Inter-African Network for Human Rights and Development (Afronet), Lusaka, p.109.

³ Asia Human Rights Commission quoting the AFP (1st July 2003); *Two Sri Lankan police sentenced to death over Tamil prisoner massacre*.

See http://massacres.ahrchk.net/bindunuwewa/main_file.php/The+Bindunuwewa+Massacre/151/ (accessed on 2-11-2004)

⁴ *Ibid*

⁵ See Suara Rakyat Malaysia Human Rights Report 2003

⁶ Bureau of Democracy, Human Rights and Labour, (2004f) *Country Reports on Human Rights Practices: Namibia*, U.S. Department of State: <http://www.state.gov/g/drl/rls/hrrpt/2003/27741.htm>
Above, n.79, p.29.

⁷ Amnesty International, (1999) *Zambia: Applying the Law Fairly or Fatally? Police Violation of Human Rights in Zambia*, AFR 63/001/1999, p.28.

⁸ Mazengera, S. (2002) "Malawi", in N. Mwanajiti, P. Mhlanga, M. Sifuniso, Y. Nachali-Kambikambi, M. Muuba, and M. Mwananyanda (eds.), *Police Brutality in Southern Africa – A Human Rights Perspective*, Inter-African Network for Human Rights and Development (Afronet), Lusaka, p.29; Bureau of Democracy, Human Rights and Labour, (2004i) *Country Reports on Human Rights Practices:*

Swaziland, U.S. Department of State: <http://www.state.gov/g/drl/rls/hrrpt/2003/27754.htm>.; Amnesty International, (1999) *Zambia: Applying the Law Fairly or Fatally? Police Violation of Human Rights in Zambia*, AFR 63/001/1999, p.3.

⁹ Ng Sui Wa, D. (2004) *Lobbying Support for Police Oversight by the Civil Society*, paper presented at the Policing Oversight and Accountability Conference, Sandton, South Africa, January 26-29, p.4.; Chanda, A.W. (2004a) *Lecture Series: Human Rights for Law Enforcement Officers*, the Zambia Legal Information Institute: <http://www.zamlii.ac.zm/media/news/viewnews.cgi?category=2&id=1069084655>.

¹⁰ Chanda, A.W. (2004a) *Lecture Series: Human Rights for Law Enforcement Officers*, the Zambia Legal Information Institute: <http://www.zamlii.ac.zm/media/news/viewnews.cgi?category=2&id=1069084655>.

¹¹ Ng Sui Wa, D. (2002) "Mauritius", in N. Mwanajiti, P. Mhlanga, M. Sifuniso, Y. Nachali-Kambikambi, M. Muuba, and M. Mwananyanda (eds.), *Police Brutality in Southern Africa – A Human Rights Perspective*, Inter-African Network for Human Rights and Development (Afronet), Lusaka, p.35.

¹² *Ibid.* p.3.

¹³ [1968] 1 All E.R. 763, at p. 769.

¹⁴ "Section 54 of the Code of Criminal Procedure empowers any police officer to arrest a person. Subsection (1) of this section 54 has been the main provision which has been abused by the police as this sub-section provides that the police can arrest a person if (a) the person has been concerned in any cognizable offence, or (b) against whom a reasonable complaint has been made, or (c) credible information about his involvement in crime has been received, or (d) there is a reasonable suspicion about his involvement in a crime. This last part -- there is a reasonable suspicion about a person's involvement in a crime -- is what enables police to arrest anyone, claiming that the police had suspected the person of being involved in crime. Police can arrest anyone on this suspicion which, until this judgement was not limited by any criterion or ground of reasonableness of suspicion". See Malik, Shahdeen (2003), *The Onus is on civil society now*, The Daily Star (May 4, 2003), <http://www.thedailystar.net/law/200305/01/> (accessed on 19-11-2004)

¹⁵ BLAST v/s Bangladesh 55 DLR (2003) 363.

¹⁶ Prem Shankar Shukla v/s Delhi Administration 1980 Cri.LJ 930

¹⁷ Joginder Kumar v/s State of UP and Others 1994 Cri.LJ 1981; and D.K. Basu v/s State of West Bengal AIR 1997 SC 610

¹⁸ Delhi Domestic Working Women's Forum V Union Of India & Others 1995 (001) SCC 14

¹⁹ Nilbati Behera v/s State of Orissa 1993 (2) SCC 746

²⁰ See Ansari, Iqbal A., (2001) *Is there any hope of justice?: Hashimpura (Meerut) killings by the PAC*, *PUCCL Bulletin, Fe. 2001*, <http://www.pucl.org/reports/UttarPradesh/2001/hashimpura.htm> (accessed 21-11-2004)

²¹ Bhatnagar, Rakesh, (2002) *PAC men's trial moved to Delhi*, Times of India, 27th September 2002.

²² Section 34, The Special Powers Act, 1974

²³ Indemnity Act, No. 20 of 1982 (Certified on 20 May 1982) and Indemnity (Amendment) Act, No. 60 of 1988 (Certified on 17 December 1988).

²⁴ Amnesty International (Bangladesh); *Urgent need for legal and other reforms to protect human rights*, ASA 13/012/2003

²⁵ Ng Sui Wa, D. (2002) "Mauritius", in N. Mwanajiti, P. Mhlanga, M. Sifuniso, Y. Nachali-Kambikambi, M. Muuba, and M. Mwananyanda (eds.), *Police Brutality in Southern Africa – A Human Rights Perspective*, Inter-African Network for Human Rights and Development (Afronet), Lusaka, p.43.

²⁶ Ng Sui Wa, D. (2002) "Mauritius", in N. Mwanajiti, P. Mhlanga, M. Sifuniso, Y. Nachali-Kambikambi, M. Muuba, and M. Mwananyanda (eds.), *Police Brutality in Southern Africa – A Human Rights Perspective*, Inter-African Network for Human Rights and Development (Afronet), Lusaka, p.31.

²⁷ *Ibid.*, 70

²⁸ Asma Jahangir (2003), *Mission to Jamaica*, Addendum to the *Report of the Special Rapporteur on extrajudicial, summary, or arbitrary execution submitted pursuant to the Commission on Human Rights Resolution 2003/53*, E/CN.4/2004/7/Add.2 at pp13-14.

²⁹ Gil-Robles, Alvaro, The Commissioner for Human Rights of Council of Europe (12th February 2004), *Report on the visit to Cyprus*, CommDH(2004)2.

³⁰ *Ibid*

³¹ The “*Missing Persons Commission*” Unit. See the Fourth Periodic Report of Sri Lanka submitted to the Human Rights Committee under Article 40 of the ICCPR. See CCPR/C/LKA/2002/4 (18th September 2002) at page 36.

³² The “Prosecution of Torture Perpetrators Unit. See the Fourth Periodic Report of Sri Lanka submitted to the Human Rights Committee under Article 40 of the ICCPR. See CCPR/C/LKA/2002/4 (18th September 2002) at page 41

³³ Second periodic report of Sri Lanka to Committee Against Torture under Article 19 of the Convention. See CAT/C/48/Add.2 (6th August 2004) at page 14.

³⁴ Asian Legal Resource Centre, Centre for Rule of Law, Sri Lanka, People Against Torture, Sri Lanka and The World Organisation Against Torture (OMCT) (September 2003) *State Violence in Sri Lanka: An Alternative report to the Human Rights Committee* at page 15.