

Exposed and alone: torture survivors in Sri Lanka bear the burden of their own protection

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Abstract: Within a history and context of torture practised by state agents in Sri Lanka, this article discusses in relation to victims of torture who engaged with complaint mechanisms, the threats faced, the responses received from complaint mechanisms, and what victims and their families actually did to secure protection. The article is an analysis of the threats of fabricated criminal charges, personal and social humiliation, and physical threat and intimidation in retaliation to lodging of complaints against perpetrators and the strategies of aggression and mobilising social connections that are utilised.

Keywords: Torture, Sri Lanka, protection, police brutality.

Note on the authors: Ermiza Tegal is a senior lawyer with 15 years of legal experience and 20 years of experience in the human rights field. Thiagi Piyadasa has 15 years of experience in the development and human rights sectors and six years as a lawyer. Our legal practice primarily involves providing legal advice to survivors of torture and domestic violence, filing cases against perpetrators and appearing in defence of survivors in various legal forums. In addition, we work closely with grassroots activists and civil society organisations, and engage with advocacy and policy efforts on issues of women's rights, torture and protection.

Introduction

Sri Lanka has a long history of violence as a means of organising and structuring the governed as part of the country's post-colonial state building exercise (Dewasiri 2018). The country has experienced extraordinary brutal violence in the youth uprisings of the early 1970s, mid 1980s (Perera 1995; Hughes 2012) and the three decade long ethnic war (Barnes 2013). State responsibility and complicity also played a part in the several communal riots (Dissanayaka 1983; Kannangara 1984; Kearney 1985; Holt 2016; Nagaraj & Haniffa 2017) and experiences of prison massacres.¹ The Sri Lankan state has also failed to accept responsibility and hold accountable perpetrators of mass graves (Bopage 2018), and respond to the scores of families of victims of enforced disappearances. In 2013, the tiny island ranked second in the world for the highest number of enforced disappearances (UNHRC 2013). The state has also failed to take responsibility towards the countless victims of a permanent state of emergency and anti-terror laws (Tegal 2021) and to respond to the reports of deaths in custody and complaints of torture recorded year upon year² (Pinto-Jayawardene 2010; Human Rights Commission of Sri Lanka 2020; Fernando 2021).

Authoritarian power grew with a course set by the second republican constitution of 1978, which introduced an all-powerful executive president and a weak judiciary. Over the decades a quagmire of oppressive security laws and extra judicial institutions have further undermined the judiciary, led to loss of independence of oversight bodies and resulted in several acquittals and failures to hold perpetrators accountable (International Commission of Jurists 2012).

The violence is a 'theater of power' (Kapferer 1989; 1996) for people of Sri Lanka and plays out in the everyday (Spencer 1990). Torture as an everyday form of state violence organises and structures the state's relationship to the citizen. It is a relational violence perceived as enmeshed in the fabric of social relations in Sri

¹ Sri Lanka has experienced at least 15 reported serious incidents of violent attacks of prisoners. Instances in which several prisoners were killed include 53 killed in Welikada Prison in July 1983, 27 killed in Bindinuwewa detention facility in October 2000, 27 killed in Welikada Prison in November 2012, 2 killed in Anuradhapura Prison in March 2020 and 8 killed and 59 injured in Mahara prison in November 2020.

² UN Committee Against Torture (CAT) Concluding Observations on the fifth periodic report of Sri Lanka, CAT/C/LKA/CO/5 dated 27 January 2017 states torture is 'a common practice' in Sri Lanka. UN CAT Concluding Observations on the combined third and fourth periodic report, CAT/C/LKA/CO3-4 dated 8 December 2011 refers to 'widespread use of torture and other cruel, inhuman or degrading treatment of suspects'. UN CAT Concluding observations on the second periodic report of Sri Lanka, CAT/C/LKA/CO/2 dated 15 December 2005 refers to 'deep concern about continued well-documented allegations of widespread torture and ill-treatment as well as disappearances, mainly committed by the State's police forces'. UN CAT observations on the initial report of Sri Lanka refers to grave concerns relating to serious violations of the convention, particularly torture linked to disappearances.

Lanka (Kapferer 2001; de Mel 2003; Munasinghe *et al.* 2015; Jayawardene & Pinto-Jayawardene 2016; Munasinghe 2017). For example recent reports on prisons in Sri Lanka described everyday violence experienced by inmates (Prison Study by the Human Rights Commission of Sri Lanka 2020) and another report on land rights described the use of humiliating language by land administrators towards people particularly from ethnic minorities (Our Land, Our Life: People's Land Commission Report 2019–2020). Maintaining moral order (Munasinghe *et al.* 2015) and security are the discourses moved to justify torture. This is reinforced in the use of language that others and politicises the criminal. Victims are often cast as terrorists, social deviants, drug addicts, disrupters of social harmony and other attributions of criminality. Some of the underlying motivations for the use of torture, which are also all forms of asserting power and control, have been identified as maintenance of corruption (Block *et al.* 2017), settling private and political vendettas (de Mel 2003) and silencing dissent (Freedom from Torture 2015).

The prevalence of torture as a form of state violence in the country has been recognised as widespread and common practice.³ We know of the most common torture techniques (Peel *et al.* 2000; Perera 2007; Tegal & Piyadasa 2021)⁴ and are aware of the physical and mental consequences on survivors, including the collective impact of the practice and threat of torture experienced by community as targeted by the Prevention of Terrorism Act at the time (Perera 2006; Perera 2007; Somasundaram 2008; Perera & Verghese 2011).

³ UN Committee Against Torture (CAT) Concluding Observations on the fifth periodic report of Sri Lanka, CAT/C/LKA/CO/5 dated 27 January 2017 states torture is 'a common practice' in Sri Lanka. UN CAT Concluding Observations on the combined third and fourth periodic report, CAT/C/LKA/CO3-4 dated 8 December 2011 refers to 'widespread use of torture and other cruel, inhuman or degrading treatment of suspects'. UN CAT Concluding observations on the second periodic report of Sri Lanka, CAT/C/LKA/CO/2 dated 15 December 2005 refers to 'deep concern about continued well-documented allegations of widespread torture and ill-treatment as well as disappearances, mainly committed by the State's police forces'. UN CAT observations on the initial report of Sri Lanka refer to grave concerns relating to serious violations of the convention, particularly torture linked to disappearances.

⁴ Peel's study medically documents mainly forms of torture by rape and sexual assault. Perera's study medically documents 68 methods of torture including use of pilable and non pilable blunt weapons, cigarette burns, submergence in water tanks, petrol-soaked plastic bag over head, cuts by knives and razors, chilli powder in eyes, assault including on soles of feet, burns by molten plastic. Tegal and Piyadasa by literature review and interviews documents torture techniques include derogatory words, threats, insults, intimidation, shoving and slapping, beating, kicking, trampling, removal of clothing, rape, sexual abuse and harassment, use of implements such as batons, wooden or bamboo sticks, firewood, poles or wickets, wires, and metal chains to inflict pain, made to kneel, made to walk on knees, beaten on soles of feet, hung by thumbs, by wrists and ankles, burns, various forms of asphyxiation and use of chilli powder or petrol to cause a stinging sensation.

In the context of long histories of violence and impunity described above, and the embedded nature of the practice of and social acceptance of torture, this article looks at the experience of survivors to understand their responses as victims after an incident of torture, and how protection is sought and secured.

Methodology

This article draws from the British Academy funded research conducted between 2019 and 2021 in Sri Lanka and Kenya on protection available to survivors of torture and ill treatment from poor communities.

The study methods included a scoping workshop with those familiar with providing protection to victims, case study documentation of experiences of survivors of torture, validation of survivor experiences at focus groups discussions with survivor communities, reviewing the anti torture legal framework of Sri Lanka, and identifying gaps in protection through interviews with key informants with experience of state and non state intervention connected to assisting victims of torture.

At the scoping workshop, participants emphasised that issue of torture was not a safe topic to discuss and that a level of trust was a prerequisite to engaging in a meaningful conversation about torture. Thereafter, the study period coincided with the immediate results of a Presidential election in November 2019 and a general election in August 2020, which ushered in a President and government that were associated with authoritarianism and an alarming record in relation to human rights. Constitutional amendments in October 2020 significantly affected the independence of institutions dealing with complaints of torture. There was heightened concern for civil liberties due to a spike in the incidents of 'lockdown' related arrests, complaints of police torture and police action against those critical of public officials or the government. The context did not lend to free participation of state officials and also survivors of torture.

Due to the COVID-19 pandemic travel restrictions and other precautions the methods were adapted. The three case studies interviews were conducted in person and the respective legal documents studied.

All key informant interviews were conducted over secure online platforms and the planned focus group discussions were abandoned. Those interviewed consisted of lawyers who represented survivors at different courts and two former prosecutors, human rights activists working at the community, national and international levels on torture in Sri Lanka, a psychiatrist, a psychologist and a medical professional who worked with victims of torture, a former Commissioner of the National Human Rights Commission and two researchers who had engaged with particularly vulnerable categories of victims.

The reliance on thick descriptions of three cases provides valuable insights and when supported with contextual insights, captures some of the complexities and variables in these lived realities of securing protection. While it is clear that poor communities, also poor members of Tamil and Muslim minority groups and marginalised categories of persons (i.e. sex workers, criminal suspects, LGBTQ+ persons) in Sri Lanka are extremely vulnerable to torture, the case studies documented are interesting in that they represent victims who belonged to the majority Sinhala Buddhist community, who enjoyed social standing in their communities, and who had degrees of trust and confidence in the state apparatus. Whilst it's important to be cautious about generalising from this study, the experiences of 'respectable' Sinhala torture survivors of threats, responses from complaint mechanisms and means of actually securing protection can illuminate the systemic challenges that exist.

Introduction to the case studies

All three families featured below identify as Sinhalese, the majority ethnic and language identity making up over 70 per cent of the Sri Lankan population. This ethno-linguistic identity is important given the history of political privileging of the Sinhala language and the impact that it has on trust of state institutions (Perera 2011).

In many ways, these cases are anomalies in the landscape of vulnerability and silence experienced by survivors which were described to us during the scoping workshop and in key informant interviews. These families are not from populations that are especially vulnerable to torture as identified by Fassin & Kutz (2018) or from marginalised political minorities, Tamils or Muslims. They were not located in the war affected territories and did not experience the everyday militarised governance that exists in the North and East of the country. They are different in that religion, ethnicity, class and existing social connections including to law enforcement officials empower their response to their experience. They are also victims who were linked with human rights organisations or defenders willing to help, in a context where only very few human rights organisations openly and directly work on assisting victims of torture in Sri Lanka. For these reasons, their experiences represent rare instances of victims' engagement with complaints mechanisms and the legal system against the perpetrators, as few survivors feel able to do so.

Below, we introduce the three cases. The names of all individuals have been changed.

Three cases

Torture and murder of an army deserter (2000): the story of Nimal and Chathuri

Nimal's family, lower middle-income household, owned a small shop and was engaged in paddy cultivation, in the Western Province of Sri Lanka. They were a close-knit family and had a reputation in their community of being generous and helpful towards those in need. Nimal had one sister and six brothers. At the time of the incident, one brother was in the police force and another in the army. Nimal was married to Shanthi, and had a two and half year old son. It had been a few months since Nimal had deserted the army and returned to his wife and child.

In June 2000, Nimal was arrested at his home by the local police, kept in police custody for six days and subjected to severe assault. Once, with his hands tied with rope he was beaten in front of his wife. His family visited him daily and saw the swellings and bruises on his legs and arms, and the difficulties he had to walk or stand up. They complained to various institutions mainly to secure his removal from police custody. They insisted that he be handed over to the military police or be produced before a court. When his sister, Chathuri, complained to the Assistant Superintendent of Police, he did not record her complaint and instead directed the local police to hand Nimal over to the military police. It is only when Chathuri shouted outside the police station threatening to complain to the Human Rights Commission that Nimal was produced before a court later that day. The police falsely charged him with possession of *kassipu* (illicit alcohol). A fabricated medical report was presented to court stating Nimal was physically unharmed. The court ordered that he be transferred to a remand prison. Nimal told his family that he had been too afraid to disclose to the court that he had been beaten. He was never produced before a medical professional during this time. After three days in remand prison, and nine days after his arrest, Nimal died in prison. The post-mortem report described Nimal as having 'twenty injuries (contusions and abrasions) on all parts of the body: on his head, chest and abdomen, and on every section of every limb—upper arm, forearm, hand, thigh, knee joint, leg and foot. His upper right arm was swollen and black in colour. The cause of death was acute renal failure due to muscle cutaneous injuries following blunt trauma'.

The family was distraught at the loss of their brother. Their lives, thereafter, involved regularly travelling to the capital, Colombo, to follow up on complaints at various institutions. Chathuri recalls vividly, enduring sexual harassment in the form of inappropriate remarks and requests by officials in the institutions she accessed and also catcalls and comments by men on the streets as she travelled. Of all Nimal's siblings it was only his sister, Chathuri, who undertook the burden of pursuing and participating in the several avenues for legal redress, the criminal case, the complaint before the Human Rights Commission, the civil cases for compensation against the

perpetrators and losses the judicial medical officer who fabricated the medical report to court, the disciplinary inquiry against the judicial medical officer for professional negligence and the fundamental rights in the Supreme Court of Sri Lanka.⁵

In 2003, the Supreme Court delivered a judgement in favour of Nimal. Shanthi had not been initially legally entitled to file the case on behalf of her husband and later in a landmark decision the court permitted her as a family member of the victim who had died consequent to torture, to petition court on the victim's behalf. The Supreme Court held that Nimal's right to be free from torture had been infringed and ordered compensation in sum of 800,000 Sri Lankan Rupees (approximately 4000 USD) to be paid to his wife and infant son. At the time judgement was delivered, Shanthi had left the family. Chathuri believes that the hardship of pursuing multiple legal cases, the unbearable financial toll of legal, travel, childcare and family welfare costs, and the physical and emotional costs caused Shanthi to leave. Chathuri took Nimal's son under her care and has been his sole caregiver since. Chathuri has dedicated her life to assisting other families who are affected by torture to navigate the legal system with some confidence. Chathuri recognises value in compassion, accompaniment and insists that the system ought to work for the rights of the common person.

Torture of two fishermen (2008): the story of Amal and Bimal

The second case involves Amal, 60 years old, and his son Bimal, 34 years old at the time of the incident. They are fishermen from low-income households in the Southern province of Sri Lanka. Amal has a history of left-wing political involvement and was very active in the social and political life in his village. Amal was very vocal about social injustice in his community. He has garnered the respect of members of his community as a result of his social activism and forthright personality.

Bimal lived in close proximity to the local police station, in a house donated to him after his small hut was destroyed by the Tsunami in 2004. Bimal said that he and his partner of eight years, Sonali, often quarrelled over relationships that Sonali was having with other men, including a Sub Inspector of Police at the local police station. Bimal lived in fear because the Sub Inspector had on several occasions attempted to arrest Bimal, which Bimal believes was at instigation of Sonali. When Bimal met with the Sub Inspector to explain his side of the story, to his dismay, the Sub Inspector had

⁵ The Supreme Court of Sri Lanka is the highest court in the country and has original jurisdiction over violations of rights protected under the constitution. There is only one Supreme Court situated in the commercial capital of Colombo, in the Western Province of Sri Lanka. Key informant interviews highlighted the perception of this court as inaccessible mainly for reasons of cost of and access to legal representation. The study of the legal framework also drew attention to challenges such as a 30-day time limitation to complain and lack of access to medical records maintained by state medical officers documenting torture.

demanded that Bimal leave his home and allow Sonali to have sole occupation of the property.

A few days later, Bimal witnessed his household belongings being loaded onto a tractor with the Sub-Inspector and a constable present. When Bimal attempted to intervene, he was assaulted by the constable. Bimal ran to his father's house to escape. He was chased by the Sub-Inspector and constable, who caught and assaulted him in front of his father and neighbours. Bimal recalls receiving several blows to his head which caused him to collapse onto the floor. He was pinned to the ground face down and further assaulted. Amal intervened to question why the officers were treating his son in this way and also pleaded with them to stop. Amal too was then assaulted by the police. Amal and Bimal were restrained and taken before Sonali. The Sub-Inspector scolded them in foul language and slapped Bimal several times, appearing to demonstrate to Sonali that punishment had been meted out to Bimal.

The police produced Bimal in court falsely charging him of possessing cannabis and Amal on false charges of drunk and disorderly behaviour. The day after he was released on bail Bimal immediately admitted himself to a state hospital for treatment. His injuries were recorded by a judicial medical officer.

Amal and Bimal defended themselves against the fabricated criminal charges and six years later were acquitted from all charges. Eight years after the incident, the Supreme Court held that Bimal's right to be free from torture had been infringed but not Amal's. It appeared that the fact that Amal did not receive medical treatment at a hospital after the torture he experienced had disqualified him from receiving a judgment in his favour. The court found that both had been falsely charged with criminal offences. Compensation of approximately 200,000 Sri Lankan Rupees (approximately 1000 USD) was ordered to be paid to each.

Torture of young police officer (2020): the story of Dinesh and Sunila

The third case is about Dinesh, a 25-year-old police officer. Dinesh's family is a lower middle-income family in the Western Province of Sri Lanka.

Dinesh was the eldest of three boys. His mother Sunila was a homemaker and primary caregiver given that her husband was often deployed far away from home. Dinesh's father served in the police as a low-ranking officer for several decades. As a child, Dinesh had wanted to be a policeman. Dinesh told us that the village had a lot of respect for his father and this respect extended to them as a family. Dinesh's family is supported financially to some extent by his uncle who is employed abroad. Sunila has a strong personality and is the one mainly in charge of the affairs of the family. Another police officer once remarked that it was Sunila who was the 'police officer' in the family.

Dinesh had been in police service for only a few years. He enjoyed being in the front lines and being involved in drug investigations. He mentioned that there was pressure to arrest a target number of offenders each month. Dinesh said that police officers, especially in the crime division, were very supportive of each other in their day-to-day routines.

In early 2020, after a few weeks into a new placement, Dinesh was questioned about a pistol that was alleged to have gone missing from the station. Dinesh was beaten by the Officer in Charge on the back of his head and verbally abused. He was forced to kneel, one arm was raised over his shoulder and the other pulled back behind his waist so that both wrists were forced painfully behind him and handcuffed. Dinesh was repeatedly beaten with a wooden pole and his legs were stamped on by officers wearing boots. He was threatened, *'you will be killed right here'*, and a confession demanded for the lost pistol. In the midst of this treatment, one police officer remarked that Dinesh had been seen being inappropriate with a female police officer, and another called him a *'ponnayek'*, a term commonly used to insult a male as being impotent or effeminate. One suggested that they remove his trousers and check his genitals. He was kept in custody overnight without meals or water and Dinesh recalls that he was given some water by an officer who appeared to sympathise with his situation. His parents were permitted a brief meeting and then chased away, when they came to visit him. His father was threatened.

Dinesh was produced in court the following day. The police requested that court permit them to keep him in police custody for 48 hours citing that they required him for further investigations relating to the missing pistol, the judge refused to extend police custody and ordered that he be transferred into the custody of a remand prison. The judge also ordered that he be medically examined, however the police took Dinesh to a doctor at an outpatient medical facility, rather than to a judicial medical officer. On the way to the hospital, Dinesh was warned against reporting the torture. The police officers appeared to speak to the doctor beforehand, which Dinesh believes is the reason he was not properly examined. When Dinesh was in remand prison, his mother was very worried that as a police officer his life would be in danger from criminals who were within the prison system.

Dinesh's family experienced a mixed reaction from colleagues in the police, those who knew him expressed some sympathy for his situation and others believed him to have in fact stolen the firearm. Dinesh's father did not believe his son would get any justice through the formal system.

After securing some support and advice from family friends, known police officials, a known judge, a human rights defender and lawyers, Dinesh managed a month later to secure a proper medical examination by a judicial medical officer. He was diagnosed as suffering from post-traumatic stress disorder. Dinesh was contemplating legal action at the time of the interview. It was important for him to defend himself

against the false criminal charges made against him, return to his employment and secure his income. His mother was also concerned that the false charges would impact her son's future, including his impending wedding.

Dinesh's mother, Sunila was distraught at how her son was treated and she was also extremely fearful of the false allegation of theft of a pistol. She undertook the entire burden of making numerous complaints to various high ranking police officers, the Human Rights Commission, the National Police Commission, and even the President. She also spoke to those in her neighbourhood and the press.

The formal anti torture legal framework

Sri Lanka has a strong legal framework on accountability for torture. Sri Lanka's Constitution guarantees the freedom from torture as a non-derogable right, with domestic jurisprudence upholding an absolute prohibition and recognising a broad definition of torture. Citizens are legally entitled to make complaints directly to the Supreme Court. This remedy if successful results in a declaration from the Court that the person's fundamental right to be free from torture was violated and often is accompanied with a direction on the perpetrators and the state to make a token payment of compensation. The National Human Rights Commission (NHRC) and the National Police Commission are also mandated to receive public complaints relating to torture, to investigate and make recommendations related to disciplinary action affecting the employment of the perpetrator often in the form of transfers, denial of promotions for a period of time, or recommendations for criminal action to be taken. The [Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment Act No 22 of 1994](#) (CAT Act) introduced domestic criminal law specific to torture and imposed on conviction a sentence of a minimum of seven years and a maximum of ten years and a fine not less than 50,000 rupees and not exceeding 200,000 rupees.⁶ Victims are also legally entitled to file civil actions for compensation against state officials to recover actual loss caused. All of these legal measures are directed at holding the perpetrator accountable.

Sri Lanka is party to several United Nations human rights conventions including the Convention Against Torture. In 2016, Sri Lanka recognised the competence of the Committee Against Torture to receive individual complaints and in 2017 acceded to the Optional Protocol of the Convention.

Legal mechanisms providing services for victims are comparatively sparse. In 2015, the Assistance to and Protection of Victims of Crime and Witnesses Act was enacted

⁶ Section 2(4) of Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment Act No. 22 of 1994.

and confers protection to victims and witnesses of crimes. To access protection the victim must have lodged an official complaint. There are no provisions specific to victims of torture. It established a National Authority for the Protection of Victims of Crime and Witnesses and legally obliges courts, various Commissions⁷ and the Officers in Charge of police stations to provide information and protections to victims of crimes and witnesses.

Access to legal aid is important, given that accessing many of the above-described mechanisms requires legal representation. The Legal Aid Commission Law No. 27 in 1978 entitles people to legal advice and representation based on a means test, a monthly income of less than 25,000 Sri Lankan Rupees (approximately 215 USD).

It is against the backdrop of this legal framework that the experiences of the victims are examined below.

Threats faced by victims of torture and their families

This section looks at the threats perceived and faced by victims to place to some extent the context of the discussion that follows on protections sought and negotiated by victims and their respective families. We describe below three forms of threats: (a) the threat to physical liberty as a result of fabricated criminal charges, (b) personal and public humiliation, and social ostracisation, and (c) physical and verbal intimidation and harassment in response to formal complaints.

The threat to physical liberty as a result of fabricated criminal charges

In all three cases, there is a threat of fabricated criminal charges against the survivor. Nimal was charged with possession of illicit alcohol. Bimal was charged with possession of cannabis and Amal with drunk and disorderly behaviour. Dinesh was charged with stealing a firearm, which was also framed as a public property offence. We assume that the criminal charge is, in itself, a means of justifying the torture both in the eyes of the public and the legal system. It is difficult to say whether the charges are intended to prevent complaints against the torture. However, it puts the victim and their family on the backfoot, essentially directing physical, emotional and financial resources away from seeking medical, psychosocial and other assistance and potentially pursuing accountability and justice.

⁷ The Human Rights Commission of Sri Lanka, The Commission to Investigate Bribery or Corruptions, Investigations Commissions or a Special President's Commission of Inquiry or any other Commission appointed under the Commission of Inquiry Act.

The filing of criminal charges themselves means that these survivors and their families are compelled to defend themselves in court and must secure legal representation to be released on bail. When the false charges involve drug offences or public property, the judge before whom the survivor is first produced, has no jurisdiction to order the accused to be released on bail. Therefore, continued incarceration is one of the immediate dangers that these survivors and families confronted. Drug and public property offences are also offences that carry severe penalties and therefore survivors face the additional threat of long-term incarceration if they do not defend themselves. A distrust of the criminal justice system to provide a fair trial and deliver just decisions intensifies their fears. The fabricated criminal charges also cast the survivor as a morally abhorrent character, immediately undermining social support within their community and placing the survivor within the class of the victimisable population.

Personal and public humiliation, and social ostracisation

Chathuri recalls an investigating officer at the National Police Commission attempting to shame her by commenting about her character as a 'loose woman'. She also experienced many officials making inappropriate and sinister suggestions to have 'relationships' with her. She believes these may also have been attempts to influence her to settle the cases. In the case of Dinesh, the young police officer, his torture involved the making of comments questioning his masculinity and also several remarks alleging that he had behaved inappropriately with a female police officer. The perpetrating police officers had also told the family of Dinesh's fiancé that he was a criminal causing him and his family distress and embarrassment. A woman human rights activist and a male lawyer interviewed in the course of the study also described to us routine harassment experienced by female family members who are compelled to interact with law enforcement officials in the course of pursuing cases.

Social ostracisation and attempts to alienate existing social support was a key part of the experience of survivors. As described previously, the nature of the fabricated criminal charges in themselves often served the purpose of undermining social support for the survivor. The heavy police presence at Nimal's funeral was a sinister signal that the state is involved and is a measure to discourage public support to the survivor's family. In the case of the fishermen, the perpetrators influenced the Chairman of the Urban Council (a local government body) and a school principal to lobby the survivors to withdraw the fundamental rights case that had been filed against the perpetrator police officers. Such influence further alienates the survivor and family members from commonly accessed state officials and institutions. Dinesh's mother spoke of rumours being spread in their neighbourhood of her son as an alleged thief. Dinesh's mother called on all her connections and even spoke at a press conference to

highlight the injustice and treatment of her son. Human rights activists and lawyers described similar tactics by perpetrators of filing false criminal cases, publicly humiliating survivors, publicising as news items videos made by the perpetrators in which survivors are shamed as criminals, and even spreading rumours that a survivor's sister was mentally ill.⁸ In our three cases, each of the families had some social standing mainly as a result of their social works or employment. Yet, having to face the threat of social ostracisation meant their physical and emotional energies were significantly engaged in resisting this. Setting the record straight, required continuous engagement and expending of social resources by victims.

Physical and verbal intimidation and harassment in response to formal complaints

Retaliation was a common response to formal complaints being made by victims. Chathuri recalls how there were many police officers present at her brother's funeral. She remembers that they remained there the whole day and how 'horrified' the family was at their intimidatory presence. She says her brother's grave was sealed with concrete for fear of interference with his body once laid to rest. At other times, Chathuri was compelled to report to the judge that she was being followed from court after attending the case against the police. Chathuri also recalled that the phone number given at inquiries received several intimidating calls afterwards. Chathuri had felt anxious when travelling back and forth attending inquiries. In fact, with investigations ongoing even 20 years later, Chathuri who had continued to pursue cases against the perpetrators, was attacked by two men on a motorcycle while walking home and her bag of original court documents seized. Bimal described regular harassment by the local police after he and his father lodged complaints. He would often be bullied and threatened by police officers when he was simply walking or riding his bike on public roads. They would stop him, inspect his national identity card and question him on his movements.

The retaliatory violence, surveillance and threat of violence persisted for as long as the formal complaints were active. There was a sense of foreboding that incorporated itself into the life routines of these victims. Lawyers and human rights defenders we interviewed described retaliation as a foremost concern of survivors. One human rights activist stated that it was impossible for a survivor of torture to continue to reside in their locality or home if they pursue legal action.⁹ His organisation, therefore, as a matter of routine, considered providing assistance for relocation, often to areas very far from the original homes of the victim. Consequently, he says survivors need to find new employment and start their lives all over again. He recalled an

⁸ Interview Nos. 1, 2, 3, 4, 5, 6, 12.

⁹ Interview No. 12.

instance of a survivor's house being burnt and another who after relocation, returned to his original home after six months only to be shot dead. Responding to retaliation has led to displacement, loss of livelihood, loss of social networks and disrupted education of children for victim families.

The multitude of threats experienced by survivors who stand up to, challenge or take formal action against acts of torture contribute to a social consciousness ingrained with strong sentiments of fear and hopelessness.

Why then do victims choose to complain and what comes of lodging complaints? Civil society actors viewed torture and ill treatment as experienced significantly more widely than reported,¹⁰ a trend that has been observed (Jensen, Kelly, Sharma, Koch Anderson & Christiansen 2017). Those who did not report their experiences were described as poor or having limited social acceptance or political influence. These survivors were believed to be held back by feelings of shame and fear associated with speaking their experience particularly for reasons of drawing further attention to themselves or experiencing social stigma.¹¹ There was also a lack of trust or faith in the formal justice system. In this context, the decision to lodge a formal complaint frames itself as a risky one and we explore the 'why' and 'how' of the decision to complain to shed light on the practical assessments and strategies of these victims.

The decision to lodge formal complaints

To understand the motivations in engaging formal complaint mechanisms, the narratives of the cases provided valuable insight. Lodging of formal complaints was often motivated by very immediate needs of securing physical safety. In the two cases which took many years before courts, motivations to continue with the case against perpetrators also changed over time.

In Chathuri's case, the visible torture and ill treatment of her brother in the days after he had been taken into custody prompted complaints to the NHRC. The purpose of the complaint was to stop the torture. However, Chathuri continued to pursue criminal and civil cases against the perpetrators of torture for over 20 years (at the time of interview). For herself, she firmly believed that it was necessary to hold the perpetrators accountable. She also spoke of wanting to prevent the experience of powerlessness and continued violence for others and of wanting to change the system, which also fuels her work as human rights defender. In Amal and Bimal's case, Amal spoke of maintaining, and perhaps even regaining, dignity and of pursuing justice as the reasons for pursuing formal complaints. His reasons appeared directly connected

¹⁰ Finding of scoping workshop in October 2019 and Key informant interview Nos. 1, 2, 5, 10.

¹¹ Finding of scoping workshop in October 2019.

to the fabricated criminal charges levelled against them and having to restore their honour and standing in the community. Securing this dignity appeared to also be directly linked to their ability to move around and live somewhat free from police intimidation. It was important to Amal not to show fear and lodging a formal complaint appeared to be one way of not showing fear. With Dinesh, the young police officer, formal complaints were initially motivated by the need to ensure his safety while he was in remand custody. Formal complaints were a means of officially recording his experience so that the family could contest the fabricated charges made against him, contest the social stigma associated with having such allegations made and also contest the decision to suspend him from service and stop payment of his salary.

Victim experiences of complaint mechanisms

In this section we look closely at the experiences of survivors and their families when they interacted and attempted to interact with complaint mechanisms.

Complaints to the National Human Rights Commission

Even though torture is often unreported, we found the number of complaints reported to the National Human Rights Commission of Sri Lanka (NHRC) to be considerable. The number of complaints received in the period 2010 to 2018, which were the eight years immediately after end of the war in 2009, was 4,365.¹² This translates to approximately three complaints of torture every two days. There is a stark difference between the complaints recorded by this independent NHRC and the complaints formally investigated and prosecuted. A rough comparison leads us to believe that less than 99 per cent of the complaints received were formally investigated and prosecuted, and less than 0.2 per cent resulted in convictions.¹³ Read in the context of NHRC recommendations not being enforceable and that inquiries are not always completed, we wondered what motivates survivors to lodge complaints.

In her experience as a human rights defender, Chathuri has used the NHRC complaint mechanism to intervene and stop ongoing torture within police stations. She said that immediately upon receiving a complaint of ongoing torture, the NHRC called the relevant police station and inquired about the victim and

¹² Information was extracted from the [Human Rights Commission of Sri Lanka \(HRCSL\) report to the UN Committee Against Torture in 2016](https://www.hrsl.lk/wp-content/uploads/2020/01/Report-to-CAT-Committee.pdf) <https://www.hrsl.lk/wp-content/uploads/2020/01/Report-to-CAT-Committee.pdf> and statistics of complaints received on the HRCSL website.

¹³ These figures compare information provided by the Attorney General's Office on prosecutions in 26 years with the number of complaints received in 8 years by the Human Rights Commission. It must be noted that the percentage of convictions must therefore in fact be much lower than 0.2 per cent.

demand that any ill treatment be stopped. In the other two cases, the experiences of torture are contained within the 24 hours between the arrest and production of the victim before a judge. Complaints were lodged thereafter at the NHRC on the advice of a human rights organisation. Formal complaints are one of the main ways in which human rights organisations assist victims of torture. Complaints to the NHRC involve the least formality as complaints can be made by phone, facsimile, email and submitting a brief complaint form to the regional office of the NHRC closest to the victim. There are no costs involved. The fact that a complaint has no serious or material consequences for the perpetrator means the risk of retaliation is likely to be low. Complaints to the NHRC also enable survivors to overcome the 30-day time bar that otherwise shuts out survivors from filing a fundamental rights case in the Supreme Court. It has also enabled, as demonstrated in Dinesh's case, victims to secure medical examinations and also access medico-legal reports, which may otherwise be denied to them. It is notable that this demonstrable confidence across the island in lodging complaints with the NHRCSL plummets to zero in the two heavily conflict-affected Northern and Eastern, where militarised social relations is intensely visible and persistent despite the end of the war over a decade earlier.

Criminal proceedings against perpetrators of torture

In our three cases, we note that the perpetrators were all locally stationed police officers. In Bimal's and Dinesh's cases, the survivors did not even attempt to lodge complaints with the local police station. Chathuri had attempted to record a complaint at the local police station but had been turned away. Thereafter, Chathuri lodged a complaint directly with the Inspector General of Police, the head of the national police force. No action was taken by the police department in response to the reporting of the crime that her brother was tortured. It was only much later, after Chathuri had several complaints and drawn much publicity to the issue, that the Attorney General filed indictments (criminal charges) in terms of the CAT Act against the perpetrators. This criminal case has taken close to 20 years without that trial being completed. Chathuri attends all court dates, numerous reasons including the chief suspect absconding from appearing before court, court hearings being taken up every three or four months and delays in taking the evidence of witnesses has contributed to the delay. In Bimal's case, no criminal proceedings were instituted against the perpetrators even after the Supreme Court made a finding that identified police officers had been responsible for the torture. In Dinesh's case, no criminal proceedings were initiated against the perpetrators even several months after the incident had been brought to the attention of all authorities and a medical report reported injuries consistent with torture.

The criminal justice system that recognises torture as a serious offence did not assist or provide protection to these survivors and their families. In 26 years of having a criminal law specific to torture, there have been only 115 cases prosecuted, 47 of which have been concluded, with a mere nine resulting in convictions ([Communication under Right to Information Act from Attorney General to Law and Society Trust 2018](#)). It is interesting to note that of the nine convictions, six are under appeal at the time of writing. Criminal cases in Sri Lanka are affected generally by laws delays,¹⁴ low conviction rates,¹⁵ alienating experiences for survivors and inadequate protections for victims and witnesses. This is compounded by the context of impunity associated with protecting state officials accused of human rights violations, which is well documented ([International Commission of Jurists 2012](#)). Even as we write, it is reported that the Ministry of Public Security is contemplating legal measures ‘aimed at saving policemen from cases of alleged violation of fundamental rights made by the public against them’, which will dismiss departmental inquiries against police officers if not proven within six months ([Jayasekera & Balasuriya 2021](#)).

Disciplinary action against perpetrators

In all three cases, complaints were lodged with the National Police Commission (NPC). Regardless of these complaints, no investigation or disciplinary action was taken by the NPC to remove the perpetrator police officers or suspend their services. Lawyers and human rights activists corroborated this experience by saying that they often did not receive favourable responses to complaints to the NPC. A human rights activist related the rare experience of a favourable decision by the NPC, which had resulted in the police officer being transferred. However, the same police officer had secured a cancellation of the transfer order and returned to the police station close to the survivor, with the assistance of a politician. While on paper the NPC identifies as an independent mechanism, it is constituted largely of retired police officers.¹⁶ Its investigations are also conducted by in-service police

¹⁴ A serious criminal case takes on average 17 years as stated in the ‘Recommendations Pertaining to the Expedient and Efficient Administration of Criminal Justice by the Parliamentary Sectoral Oversight Committee on Legal Affairs (Anti Corruption) and Media’ dated 20 September 2017. As of December 2020, Sri Lanka had 4620 unresolved cases pending before the courts for more than 20 years as reported in the Newswire—shorturl.at/dyL58

¹⁵ The rate for grave crimes was 13.8 per cent in 2019, 16.5 per cent in 2018 and 18.6 per cent in 2017. The rates were calculated based on Plaintiff filed and ending in conviction figures disclosed by the Sri Lanka Police in the Disposal of Grave Crimes Abstract for the years 2019, 2018 and 2017. The assumption is made that the number of cases said to be ‘Ending in conviction’ directly relate to cases represented as ‘Plaintiff filed’.

¹⁶ Interview No. 4.

officers. The NPC's decisions are also only recommendations and require the Inspector General of Police to make relevant orders to implement these. All these characteristics severely undermine the independence of the NPC. Therefore, it is unsurprising that the NPC does not appear to always exercise its powers of investigation, and where it does its decision can be undermined by political and other influence.

National Authority for Protection of Victims and Witnesses

As the National Authority for the Protection of Victims of Crime and Witnesses (NAPVCW) only came into being in 2015, of the victims in the three cases discussed, it was only accessible to Dinesh who experienced torture in 2020. No application was made to the authority in his case. There is little awareness or confidence in the NAPVCW.¹⁷ Lawyers mentioned somewhat half-heartedly, that they had communicated with the NAPVCW, without much expectation or any success.¹⁸ Lodging a complaint to the NAPVCW was felt likely to attract the risk of criminal charges being framed against clients and attract the possibility of incarceration. Activists and medical professionals interviewed for this study had no experience engaging with the NAPVCW. One interviewee revealed knowledge of political influence over the composition of the Authority, stating that all members of the NAPVCW were unexpectedly compelled by the government to resign on one occasion, which called into question the independence of the institution.

There is not much publicly available information on the protection work of the NAPVCW. In 2017, the Authority reports handling 57 applications of which it had responded to nine requests for protection. The responses as reported were 'providing protection' in one case, and the other cases were closed for reasons including the complainant failing to communicate, failing to cooperate, failing to disclose a threat, police investigations revealing no threat, complainant had requested the case be closed and the NAPVCW had determined the complainant to be an offender. These reasons are alarming and suggest there is little commitment to mobilising protection. The emphasis on the burden of the complainant to pursue protection and be a 'good' victim, and the dependence on the police to investigate applications undermines the effectiveness of and public confidence in the NAPVCW. Without properly funded specific protection services including creation of safe houses and provision of transport and communication facilities, there is no meaningful victim and witness protection machinery in place.

¹⁷ Interviews Nos. 1, 2, 3, 4.

¹⁸ Interview Nos. 1, 2, 3, 4.

Legal Aid Commission

Of the three cases, only Chathuri accessed the Legal Aid Commission of Sri Lanka. She was given compassionate and effective legal advice by a legal officer at the Commission. It was there that she learnt about fundamental rights applications to the Supreme Court. The Commission took up Chathuri's brother's case and found a senior lawyer who was willing to appear pro bono. Chathuri stated that without this timely assistance, she would never have been able to conceive of any legal action due to the costs involved. In Chathuri's life, this was a turning point. However, 20 years later, Chathuri does not find the Commission as helpful to other victims as it was to her. She reflects, more generally, on the fact that not all lawyers are 'good' and says she has experienced lawyers being influenced by their close relationship to police officers, and that she had come across several cases where lawyers had advised survivors facing fabricated criminal charges to plead guilty to the charges.

Judicial medical officers

In all three cases, medical professionals failed the victims. In Nimal's case, a judicial medical officer falsified a medical report to state that Nimal was not subjected to torture. Chathuri complained against that JMO and eventually the medical association revoked his license to practice. In Amal's case, soon after his arrest, when he was produced before a doctor, the doctor attempted to falsely record that Amal was in a state of intoxication. Amal's threat to report the doctor to the Medical Council prevented a false report against him. In Dinesh's case, he was not presented to a JMO and instead taken to a doctor treating outpatients at a hospital. The doctor conversed with the police, then failed to properly examine Dinesh, and when Dinesh informed him of his treatment and injuries the doctor dismissed him saying that the injuries were not severe enough to be recorded. JMOs and medical professionals are not obligated to flag complaints of torture documented by them. However, their reports are a crucial part of the evidence if survivors choose to pursue a legal case against the perpetrators. A JMO reflected on the tactics of police officers of threatening survivors and also presenting survivors to a JMO during the night knowing that only a junior medical officer would be on duty.¹⁹ An activist explained that only some JMOs were found to be supportive of victims.²⁰

¹⁹ Interview No. 14.

²⁰ Interview No. 06.

Protection from human rights organisations and activists

In the three cases, non-governmental organisations provided some limited support. Chathuri was assisted mainly with introductions to ‘good’ lawyers for her cases, some of whom appeared *pro bono*. Apart from the *pro bono* legal representation, she has had to personally financially support all the cases on behalf of her brother. Amal and Bimal were also assisted to secure ‘good’ lawyers to conduct their fundamental rights case. However, Amal and Bimal had to pay for the legal costs involved and sold the engine of their fishing boat to support these costs. Dinesh was also assisted by an activist to identify lawyers who would take on his case. His family was uncertain as to whether they would be able to bear the legal costs of a fundamental rights case, and a human rights organisation agreed to support it. In Dinesh’s case, the human rights organisation also publicised Dinesh’s case by including Dinesh’s mother at a press conference on torture. No other assistance or support was provided by non-state individuals or organisations in these cases.

Chathuri stated that human rights organisations do not support survivors to defend themselves against fabricated criminal charges. There is some support for filing fundamental rights cases which is also in terms of supporting victims to attend court is minimal as the case is based entirely on affidavit evidence and written documents. As criminal and civil cases take a very long time, human rights organisations do not undertake these cases as their funding is limited and cannot be guaranteed for more than a year. Indeed, support to defend against fabricated charges do not seem to be viewed by human rights organisations as a vital part of protecting torture survivors.

Chathuri’s relationships with survivors in some instances spans over a decade, and she describes the fact that victims experience a continuum of violence over this time. Amal recalls that they had experienced frustration at long delays in their case and that without constant support, he may have given up. There are serious constraints in the provision of immediate protection and also sustained and long-term support to victims by non-governmental organisations.

This section recounts the frustrating experiences of victim engagement with complaint mechanisms. In terms of protection, apart from the first calls by the NHRC to stop ongoing torture often accessed on the advice of a human rights activist, there were no experiences of complaints systems, governmental and non-governmental, providing adequate protection and support. State mechanisms failed these survivors, and each site of failure was also a site of threat and risk. We also observe no systematic assistance from the state and non-governmental institutions provided for the medical, psycho-social and economic needs of these survivors. Therefore, the protection gap resembles less of a gap and more a barren wasteland with scarcely any signs of protection.

At this juncture we inquire into how, in what forms and where protection is found by survivors. By doing so, we privilege the lived realities in which protection is sought and shed understanding on what is realistically and possibly materially significant to survivors of torture and their families in a country such as Sri Lanka.

What do survivors do to protect themselves?

In the narratives of the three cases of torture we find that protection was negotiated and secured within the realm of personal responsibility, in the acts, omissions, decisions and strategies deployed by survivors and their supporters. We recount below two strategies that were deployed, a language of resistance, fighting back and aggression and mobilising social connections.

Protection as demeanour, behaviour and language of resistance or aggression

Amal's strong personality was a crucial element of their response to the torture and continued violence he and his son experienced. He challenged the police officers found to be assaulting his son and later pursued a case against the perpetrators who had fabricated charges of drunk and disorderly behaviour against them. Remembering the threats made by police officers after his formal complaints, Amal said *'I made it very clear to the police that if they wanted to silence me, they would need to kill me. There was no other way. I would not be silent and would not back down.'* Amal said that if the police filed cases against them, they should file cases against the police too. *'We should give evidence and not be scared'*, he said. Amal advised Bimal that he had to be firm if the police tried to harass him and said, *'if you show weakness or that you are scared, then they try to overpower you and control you.'* He refused to be subjugated. After the fundamental rights application was filed against the perpetrators, Amal and his son were approached by the officer in charge of the police station with an offer to withdraw the fabricated criminal proceedings if Amal agreed to withdraw the case against the police. Amal recognised that the tables had turned in terms of the power he now held as a result of the case, which was evident to him in the way that the Officer in Charge had referred to him as 'Aiyya' or elder brother.

When Amal and his son were acquitted of the false criminal charges against them, Amal said they spoke to local journalists and publicised the fact that the police had framed them. Amal felt that the routine threats by the police stopped after the publicity. Amal remarked that he and his family are now known to the local police officers. It seemed that this was another measure of protection.

Chathuri was relentless in her advocacy for her brother. She argued with the police about not admitting him to hospital for his injuries. She shouted outside the police station and threatened to complain to the NHRC if her brother was not produced before a court immediately. During one of the numerous inquiries, Chathuri challenged a police officer at the NPC for speak disparagingly of her to other police officers and reproached him for spending his time discrediting her when he should be inquiring into the actions of the perpetrator police officers. Chathuri remembers that the women police officers who were outside were shocked to see her speak to their superior that way, because no one ever spoke to ‘Sir’ like that. While they were quick to label her ‘mad’ for her actions, Chathuri claims she would have to have been mad not to speak out in that instance. Chathuri believed it was important to break the culture where government officials, police and public officials are worshipped when they are paid with taxpayer money—she asks, if people like her do not speak up, then who will?

Chathuri was the force of resistance behind her family. Over 20 years, Chathuri has pursued various complaints and five legal cases connected to her brother’s killing. Her tenacity has had a cost. The toll of long and tiring days spent at various institutions, advocating for her brother’s cases to be attended to and the financial costs involved were too much for the family. In later years, also as success appeared elusive, even her family members discouraged her from pursuing the cases.

Dinesh’s mother, Sunila mounted a tremendous effort to respond to his torture. She exhibited great outrage at how her son was treated. She accompanied her son to all his medical examinations, inquiries he was required to attend and court appearances. She complained to all authorities, including the President of the country. She worried that the pistol that the police falsely accused her son of stealing would turn up in a crime that caused harm to someone and that too would be pinned on her son. She conducted her own inquiries and visited soothsayers and temples, to collect information and prepare for the threat of further false charges. Sunila said it was important to speak firmly with the authorities, she believed the government of the day owed her an explanation for her son’s treatment as she had voted for them. She advised her son to fight back if the torturers were to return to harass him. She reflected that she regrets not bringing up sons to be more tough and aggressive.

Protection as support from social connections

The three stories of torture made several references to connections with others who helped individuals after the incidents of torture and in engaging formal complaints mechanisms. It was interesting to observe that in each of the stories that the protector personalities mobilised their social capital.

In Amal's case, his political activism meant he had a reputation and many contacts in his village. As such, people from his community came forward to support him in his case against the police. Amal feels that he had earned their trust. Amal's brother-in-law was a lawyer who was acquainted through youth club activities with a community activist who helped them file their fundamental rights case. The long delays in legal proceedings were very discouraging and Amal says that without the support of and accompaniment by the community activist it would have been difficult to maintain their interest in the case.

In Chathuri's case, her family had been very helpful to neighbours and was well loved. On the day of her brother's funeral many police officers were present observing the house. Despite this, and the fact that her brother died in police custody and was known as an army deserter, the village rallied round her family during the funeral by attending the funeral in large numbers and the younger men helping cook food for those attending the funeral. Chathuri recalls how the bakery owner provided bread and tea for the crowds gathering at the funeral. Later, he would provide his three-wheeler free of charge for her to attend court, and a van to transport other witnesses, at no cost. Chathuri was active in youth groups and those connections helped her to understand and navigate the court process. The villagers expressed concern for Chathuri's safety and would accompany her from the bus stand to her home at night.

In Dinesh's case, his mother Sunila pursued all possible social connections to protect Dinesh. Dinesh's father was acquainted with a judge in the course of his employment and Sunila approached the judge to seek advice and also obtain a character certificate for Dinesh. Sunila telephoned many high-level policer officers. Once she even threatened to take poison if any harm were to come to Dinesh. Dinesh received advice and assistance from a community activist in their neighbourhood to lodge complaints, to contact a lawyer and secure legal support from a human rights organisation.

In stepping back and looking at the two strategies discussed, it is evident that they are contingent on many variables that victims cannot often control and are not sustainable or certain of success.

Conclusion

It is in a context of socio-political violence and a silencing of the experiences of torture that survivors negotiate their experiences of torture and seek protection, if at all.

In the case of Nimal, Bimal and Dinesh, their families accessed complaint mechanisms mainly as urgent reactive measures in the moment of torture or under threat of incarceration. It was towards the specific end of stopping the ongoing torture, pushing back against social stigma associated with false criminal charges, and securing release from prison. It is important to recognise these ends as legitimate forms of protection.

The decision by the three families to engage the formal legal framework exhibits some degree of entitlement and expectation that the legal system will work as advertised. Perhaps there was not much confidence but there was certainly some hope. In each case, the individuals had links to state or social power—Nimal's family's connection to the military, Bimal's father's political reputation, and Dinesh's family connection to the police. In all cases the connections were at a low level and each expressed in their own way that they did not have the connections that they perceived were necessary to address their situations. There is a recognition of the 'way things work'. This is why Chathuri and Amal insist that the system needs to change and also perhaps why Sunila feels entitled to better treatment by the government she helped elect. Chathuri reflected 'I didn't know the weight of this violence till it happened to me, to my family. My brother's killing brought to light how the law, law enforcement and the officials in these institutions worked. It is a very different standard of service and justice afforded to upper-class and working-class people.'

The three cases also amply demonstrate that complaints, particularly within the justice system, bear heavy personal and financial costs. There exists a paradox of protection, whereby engaging complaint mechanisms as part of the protection strategy resulted in a new pathway of threats. Survivors find themselves facing new threats by old and new perpetrators. Interestingly, making complaints is what non-governmental organisations mainly assist survivors to do. However, complaints opened up a vortex of counter claims whereby the case becomes a threat to the perpetrators and the perpetrators mobilise resources at their disposal to stave off negative effects on them—often increasing the threats to survivors' protection.

Where survivors secured some protection, it appeared to be contingent on their own existing social relationships, social acceptability and having some means or resources to negotiate the justice system. Overall, protection for these survivors meant mobilising personal resilience, exercising aggression and sustaining a resistance to the many continued measures that sought to delegitimise their claims and deny them protection. It is also striking that the protection burden was often both borne and left to women in the victim families. The case studies speak to powerful use of emotion and drawing on depths of strength and endurance by the female protective figures.

State responsibility to protect has failed given the ways in which institutions deny and hinder survivors seeking protection and redress. The state's relationship with the citizen reflects more fundamentally political control deploying notions of security, order and social organising disconnected from citizen experience. It is why addressing torture necessarily attracts a wide range of recommendations for political change, independence of institutions, addressing systemic issue of laws delays and introducing strong protection frameworks. Practically, however, if anything worked it seemed tethered to care, concern and commitment of individuals within and outside the formal system. In a landscape of a trust deficit in social networks and institutions, which

leads to victims and their families being alone and exposed, interventions on protection must go beyond calling for state responsibility. Interventions ought to recognise and respond to real and practical protection needs of survivors, especially immediate needs, and invest and support social networks of protection and care for survivors of torture.

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