



## International Covenant on Civil and Political Rights

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Human Rights Committee  
103rd session

### Communication No. 1862/2009

**Views adopted by the Committee at its 103rd session,  
17 October to 4 November 2011**

<i>Submitted by:</i>	Annakkarage Suranjini Sadamali Pathmini Peiris (represented by counsel, Asian Legal Resource Centre Ltd.)
<i>Alleged victims:</i>	The author, her deceased husband Mr. Siyaguna Kosgodage Anton Sugath Nishantha Fernando and their two minor children, Siyaguana Kosgodage Kalpani Danushi Fernando (born in 1992) and Siyagana Kosgodage Sinesh Antony Fernando (born in 1997)
<i>State party:</i>	Sri Lanka
<i>Date of communication:</i>	6 February 2009 (initial submission)
<i>Document references:</i>	Special Rapporteur's rule 92/97 decision, transmitted to the State party on 12 February 2009 (not issued in document form)
<i>Date of adoption of Views:</i>	26 October 2011
	<i>Subject matter:</i> Intimidation, torture of author and her family, killing of her husband attributable to agents of the State party; failure to conduct an adequate investigation and to initiate proceedings against the perpetrators.
<i>Substantive issues:</i>	Arbitrary deprivation of life; torture and ill-treatment; lack of proper investigation; right not to be subjected to arbitrary or unlawful interference with one's family; right to the family.
<i>Procedural issues:</i>	Non-cooperation of State party;
<i>Articles of the Covenant:</i>	Article 2, paragraph 3; article 6; article 7; article 9, paragraph 1; article 17; article 23, paragraph 1
<i>Articles of the Optional Protocol:</i>	None

## Annex

### **Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (103rd session)**

concerning

#### **Communication No. 1862/2009\***

*Submitted by:* Annakkarage Suranjini Sadamali Pathmini Peiris  
(represented by counsel, Asian Legal Resource Centre Ltd.)

*Alleged victims:* The author, her deceased husband Mr. Siyaguna Kosgodage Anton Sugath Nishantha Fernando and their two minor children, Siyaguana Kosgodage Kalpani Danushi Fernando (born in 1992) and Siyagana Kosgodage Sinesh Antony Fernando (born in 1997)

*State party:* Sri Lanka

*Date of communication:* 6 February 2009 (initial submission)

*The Human Rights Committee*, established under article 28 of the International Covenant on Civil and Political Rights,

*Meeting on 26 October 2011,*

*Having concluded* its consideration of communication No. 1862/2009, submitted to the Human Rights Committee on behalf of Ms. Annakkarage Suranjini Sadamali Pathmini Peiris, Mr. Siyaguna Kosgodage Anton Sugath Nishantha Fernando, and their two minor children, Siyaguana Kosgodage Kalpani Danushi Fernando (born in 1992), and Siyagana Kosgodage Sinesh Antony Fernando (born in 1997), under the Optional Protocol to the International Covenant on Civil and Political Rights,

*Having taken into account* all written information made available to it by the author of the communication,

*Adopts the following:*

#### **Views under article 5, paragraph 4, of the Optional Protocol**

1.1 The author of the communication is Ms. Annakkarage Suranjini Sadamali Pathmini Peiris. She submits the communication on behalf of her husband, Mr. Siyaguna Kosgodage Anton Sugath Nishantha Fernando, deceased on 20 September 2008, on her own behalf,

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\* The following members of the Committee participated in the examination of the present communication: Lazhari Bouzid, Christine Chanet, Ahmad Amin Fathalla, Cornelis Flinterman, Yuji Iwasawa, Rajsoomer Lallah, Zonke Zanele Majodina, Iulia Antoanella Motoc, Gerald L. Neuman, Michael O'Flaherty, Rafael Rivas Posada, Fabían Omar Salvioli, Krister Thelin and Margo Waterval.

and on behalf of their two minor children, Siyaguana Kosgodage Kalpani Danushi Fernando and Siyagana Kosgodage Sinesh Antony Fernando. The author claims that she and her family are the victims of violations of article 6, read in conjunction with article 2, paragraph 3; article 7, read in conjunction with article 2, paragraph 3; article 9, paragraph 1, read in conjunction with article 2, paragraph 3; article 17 and article 23, paragraph 1, of the Covenant by the Democratic People's Republic of Sri Lanka ("Sri Lanka"). She is represented by the Asian Legal Resource Centre Ltd.

1.2 On 12 February 2009, the Committee, acting through its Special Rapporteur for New Communications, and pursuant to rule 92 of its rules of procedure, requested the State party to take measures to ensure the protection of Ms. Annakkarage Suranjini Sadamali Pathmini Peiris and her family while her case was under consideration by the Committee. This request was reiterated on 15 September 2009. The State party has not responded to either of these requests by the Committee.

### **The facts as presented by the author**

2.1 The author and her husband, Mr. Siyaguna Kosgodage Anton Sugath Nishantha Fernando, purchased a lorry on 24 May 2003 from M.P., then officer in charge of the Kochikade police station. The officer sold the lorry to the author and her husband, giving them to believe that he was the legitimate owner of the vehicle. Later, it was revealed that the lorry was a stolen vehicle, and that the officer had changed its registration plate before selling it to the author and her husband. When they learned of his fraudulent conduct, the author and her husband filed a complaint against M.P., and a disciplinary inquiry was initiated against him. Once the inquiry started, the officer and several of his colleagues tried to threaten the author and her husband, asking them to withdraw their complaint. The officer was indicted in December 2005, but died in the same month. Because of this initial complaint filed, a number of police officers started considering the author and her husband as a threat.

2.2 A fabricated complaint was made by the Negombo police against the author's husband in 2003, when he had visited the police station to register a complaint against three local thugs who had robbed him in the street. Instead of recording his complaint, the police accused him of reporting a false crime. The author's husband filed a complaint before the Human Rights Commission of Sri Lanka, requesting intervention in his case, but no action followed. The officer in charge of the Negombo police station, M.D., demanded a bribe of 20,000 Sri Lanka rupees<sup>1</sup> from the author's husband. The latter refused to pay, and instead filed a further complaint before the National Police Commission (NPC) against the officer. No action followed. On 11 June 2004, the author and her husband gave a statement before the Bribery Commission. The Commission only initiated proceedings against Officer M.D. two years later. The procedure<sup>2</sup> is still pending before the Colombo High Court. According to the author, this new incident rallied several police officers close to M.D. against the author and her family.

2.3 In 2006, the Superintendent of Police in Negombo, M., summoned the author and her husband to his office, on the pretext that their statements needed to be recorded in the departmental inquiry against M.D. At the Superintendent's office however, the author and her husband were intimidated, and were threatened that unless they immediately withdrew their complaint against M.D., they would pay a heavy price for opposing the police. No statement was recorded. After this incident, the author and her husband filed a complaint against Superintendent M..

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<sup>1</sup> Approximately 180 United States dollars.

<sup>2</sup> Registered as B/1658/2006.

2.4 In the same year, the author and her husband went to the Negombo police station regarding a document concerning one of their vehicles. At the police station, they met with Chief Inspector N., as well as another officer who introduced himself as an officer attached to the Crime Branch. Instead of assisting them, the two officers shouted at and insulted the couple, ordering them not to come to the Negombo police station any more if they cared for their lives. The officers also stated that if they wished to stay alive, they had to withdraw the complaints they had filed against several police officers. After this incident, the author and her husband filed a further complaint against the Chief Inspector and the accompanying officer of the Negombo police station before the Office of the Deputy Inspector General in relation to the death threats received, asking for an investigation. To their surprise, the Deputy Inspector General directed this complaint to Superintendent M., against whom the couple had already filed a complaint.

2.5 In 2006, under the pretext of recording a statement related to the complaint against Superintendent M., the author and her husband were summoned to the office of the Senior Superintendent of Police, where they were verbally abused and threatened that they would be murdered if they maintained their complaints, asking them to withdraw complaints against officers M.D. and M.. The couple then filed a further complaint before the Deputy Inspector General's office, requesting an investigation into the incident, and seeking protection for their family. No action was taken in response to this complaint.

2.6 On 10 September 2006, after the author and her husband had gone to the market by motorcycle, they were approached by a police officer, who asked them why they were not wearing helmets. The couple replied that they did not need to, as they were not riding their motorcycle. Another officer then approached them, and asked them to immediately withdraw their complaint against Superintendent M., seized the keys to the motorcycle, and threatened to arrest the author's husband. The same day, the couple were arrested, and a false case was registered against them, but they were subsequently released on bail by the Negombo Magistrate Court.

2.7 On 23 September 2007, the lawyer who assisted the author and her children to deliver their statements was threatened over the telephone by an unknown person. The caller threatened to murder her if she further assisted the author and her family. Similar calls were made to the Right to Life, a local human rights organization. The author and her family started living in hiding.

2.8 On 12 November 2007, two police officers, Sub-Inspector A. and Constable D., came to the author's house, requesting her and her husband not to submit evidence against Officer M.D. at the Colombo High Court on 14 November 2007.<sup>3</sup> The officer further insulted and threatened to kill the author's husband. Officer A. then slapped the author's husband's face. The author's husband asked his daughter to write down the number of the officer's licence plate, but the officer drove towards her and hit her with his motorcycle, knocking her to the ground. Six additional officers were called to the author's house. Fearing for their lives, the author immediately contacted the Bribery Commission, seeking help. The officer who attended the call informed the author that he would relay the information to the Headquarter Inspector<sup>4</sup> for intervention. Headquarter Inspector S. arrived at the author's house accompanied by 50 officers, 20 of whom entered the house, and assaulted the entire family. The author's husband was attacked, fell to the ground and lost consciousness. The officers continued hitting and kicking him, while others assaulted the

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<sup>3</sup> Proceedings registered under B/1658/2006, and initiated before the Colombo High Court, further to the transfer of the couple's complaint against Officer M.D. by the Bribery Commission, *supra*, para. 2.2.

<sup>4</sup> Who reports to the police headquarters in Colombo, rather than to the local police station.

author. The Headquarter Inspector hit her on the face with a pistol, and another punched and hit the face of her 10-year-old son against the wall. The author, her husband and their daughter were then forced into the police vehicle. One officer tried to undress the author's daughter.

2.9 Following the incident,<sup>5</sup> the author filed a complaint before the Supreme Court of Sri Lanka for acts of torture, and thereby a breach of their fundamental rights against 13 police officers, including senior superintendents of the Negombo police, inspectors, sub-inspectors, sergeants and constables. The case is still pending before the Supreme Court.<sup>6</sup>

2.10 The author and her daughter were hospitalized at the Negombo hospital. The author was hospitalized for five days, and later needed to undergo surgery on her fractured nose. The police denied medical help to the author's husband. While the author and her daughter were in the hospital, the police charged the entire family with obstruction to police duties. The family obtained bail. The author alleges that as a result of the assault she suffered several injuries and contusions to her face, jaw and teeth.

2.11 On 23 June 2008, four persons in a lorry ordered the author and her husband to stop near Chilaw at Dalupata Bridge on the Colombo road. These included N.N. and N.M. (N.N. was an army deserter with a criminal record), who shouted that they were under instruction by the Negombo police to kill them. The author and her husband were frightened and immediately returned home. Shortly after, they found N.N. and N.M. along with two other persons in front of their house, asking her to open the gate, threatening to kill them the next day should they refuse to withdraw their complaint. The author and her husband later went to the office of the Deputy Inspector General (Crimes) and lodged a complaint about the incident.<sup>7</sup> The author's husband also filed an affidavit before the police the next day about the incident. The incident was reported to the Asian Human Rights Commission (AHRC), which wrote on 24 June 2008 to the Minister of Disaster Management and Human Rights in Colombo, seeking an intervention. The AHRC also submitted a communication to the United Nations Special Rapporteur on torture.

2.12 On 20 September 2008, while the author's husband and their son were inside their lorry at Dalupota junction near their house, two masked individuals approached them and fired two shots from a small firearm at the author's husband. The first shot missed him, but the second entered his head through the ear, killing him instantly. The assassins left the scene in the same vehicle in which they had arrived. The author's husband was declared dead at the hospital shortly afterwards.

2.13 On 11 November 2008, the author filed an affidavit at the Negombo Magistrate's Court, alleging that there were serious threats against her and her family in relation to her pursuit of her complaints of bribery and torture instituted against police officers. On 7 December 2008, the author filed another affidavit at the Paliyagoda Police Station, stating that she and her children were finding it extremely difficult to live in hiding since no investigation had been carried out regarding her husband's murder, and that his murderers were searching for the author and her children to assassinate them. The author stressed in the affidavit that the reason why the murderers of her husband had not been identified or arrested was because the murder had been organized by the police officers who had threatened the author and her family on various occasions.

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<sup>5</sup> The author did not specify whether they were detained, nor how long they were under arrest.

<sup>6</sup> Case SCFR 446/2007, filed against: the Senior Superintendent of Negombo police, P.V., Superintendent M., Headquarter Inspector S. L., Inspectors of Police S., S.L. and P., Sub-Inspectors of police A., R. N.H., L., Police Sergeant S. L. and Police Constable D.

<sup>7</sup> Complaint registered under number SIIV 345/266.

2.14 On 24 January 2009, the Right to Life organization received a call from Colombo, threatening staff assisting the author in her complaints of murder should they continue to do so. The President of the organization filed a complaint to the Inspector General of Police in this regard, but no proper investigation has so far been undertaken.

2.15 On 27 January 2009, while the author's lawyer was at the Negombo Police Station to file a complaint on her behalf, and to seek protection for her and her children, one of the police officers in the Supreme Court fundamental rights application filed by the author (Mr. B.)<sup>8</sup> verbally abused him, and threatened that he would also be killed if he continued helping the author. The officer assaulted the lawyer, threatening him with death if he came back to the police station, and coercing him to withdraw all the complaints against the police officers, including that regarding bribery, the fundamental rights application, and the complaints filed at various stages against police officers for threats received by the author and her family, as well as the complaint for torture. Fearing for his life, the lawyer left the police station.

2.16 After the incident, the lawyer filed a complaint before various authorities in Sri Lanka, including the Bar Association, but no investigation has been initiated. On 30 January 2009, an unknown arsonist set fire to his office. On 27 September 2008, two grenades were hurled into the house of another lawyer, whose name appears in the author's fundamental rights application. No proper investigation has been carried out into these incidents.

### **The complaint**

3.1 The author contends that the facts described constitute violations of article 6, read in conjunction with article 2, paragraph 3; article 7, read in conjunction with article 2, paragraph 3; article 9, paragraph 1, read in conjunction with article 2, paragraph 3; article 17 and article 23, paragraph 1, of the Covenant.

3.2 Regarding article 6, the author stresses that after the incident of 12 November 2007, when she and her family were publicly assaulted, they persistently sought help from the authorities. Even though they were filing complaint after complaint, the threats intensified, culminating in the murder of the author's husband. The author stresses that the lack of affirmative action by the State party to safeguard her life and that of her family, in particular her husband's, violates their rights guaranteed under article 6, read in conjunction with article 2, paragraph 3, of the Covenant.<sup>9</sup>

3.3 Concerning article 7, the author claims that they were severely tortured on 12 November 2007, causing her daughter's and her own hospitalization. The author stresses that in addition to these acts of torture, the family has been forced to live in hiding due to continuous threats to their lives from the police, which continued after her husband's death. Additionally, all those who have associated themselves with the author and her family have run considerable risks to their lives. The author contends that even though torture is recognized as a crime in Sri Lanka,<sup>10</sup> no one has been punished in relation to her case, and her fundamental rights application filed before the Supreme Court remains pending. She alleges that the lack of redress for acts of torture suffered amounts to a violation of article 7, read in conjunction with article 2, paragraph 3, of the Covenant with regard to her family.

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<sup>8</sup> *Supra*, para 2.9.

<sup>9</sup> The author refers to communication No. 90/1981 *Luyeye Magana ex-Philibert v. Zaire*, Views adopted on 21 July 1983, para. 8.

<sup>10</sup> Act Number 22 (1994).

3.4 With regard to article 9, paragraph 1, and stressing that her case is not an isolated incident in Sri Lanka, the author contends that by failing to take adequate action for the protection of the security of her family, the State party has breached article 9, paragraph 1, read in conjunction with article 2, paragraph 3, of the Covenant in their regard.

3.5 The author further alleges that the State party breached articles 17 and 23, paragraph 1, stressing that since 2004 they have been harassed by police officers by means of threatening telephone calls and visits. She contends that this has interfered with their peaceful enjoyment of life, and that despite several requests for protection, the threats intensified, culminating with the murder of her husband. The author also recalls that her family life has to date been marked by financial and emotional uncertainty, and that the children have been prevented from attending school, thereby denying them their right to education, and their family rights protected under article 17 and article 23, paragraph 1, of the Covenant.

3.6 Regarding exhaustion of domestic remedies, the author stresses that despite a dozen complaints filed before various State party authorities, including the President of Sri Lanka; the Chief Justice of the Supreme Court of Sri Lanka; the Minister of Disaster Management and Human Rights and the secretary of this ministry; the Inspector General of Police; the Deputy Inspector General of Police; the National Police Commission; the Human Rights Commission of Sri Lanka and the Magistrate's Court of Negombo, her husband was murdered, further threats continued to be received, no one has been arrested in connection with the events, and no investigation undertaken. Human rights defenders and lawyers assisting the family have themselves been threatened. In this context, the author stresses that the lack of progress in the proceedings, together with the fact that the alleged perpetrators have pursued their functions as police officers, have resulted in the de facto immunity of perpetrators to any proceedings. She adds that it is highly unlikely that any credible proceedings will be initiated, in light of the lack of effectiveness and delays in the proceedings in her case,<sup>11</sup> assessed in light of the general lack of domestic remedies<sup>12</sup> available to the complainant to be exhausted in Sri Lanka. The author therefore concludes that domestic remedies have been demonstrated to be ineffective, and that she should not be requested to pursue them further for her communication to be admissible before the Committee.

#### **Further submission from the author**

4.1 On 10 September 2009, the author informed the Committee that she had received a threat during time she spent in India, between 13 June and 26 August 2009, and that the danger had escalated since the family's return to Sri Lanka on the expiration of their visas. On 7 September 2009, the author's vehicle was chased by another car, when she was driving back from a court appearance. She also received a number of anonymous phone calls, which informed her that her house would be burnt, and that her family would be murdered. The author also informed the Committee that despite its request for interim measures of protection on her behalf, the State party had not taken any steps in this regard.

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<sup>11</sup> The author refers to communications No. 59/1996, *Encarnación Blanco Abad v. Spain*, decision adopted on 14 May 1998, paras. 8.2 and 8.6, and No. 60/1996, *M'barek v. Tunisia*, decision adopted on 10 November 1999, para. 11.6.

<sup>12</sup> The author stresses that in Sri Lanka, it is common for investigations to suffer long delays and illegal interventions by corrupt officers at various levels, due to the collapse of the rule of law regime in the country. She adds that the consistent position taken by the Government of Sri Lanka is that due to 28 years of armed conflict, criminal investigations as required by law are not possible as of now. Only two cases are known to the author in which perpetrators have been sentenced for engaging in torture in Sri Lanka.

4.2 On 15 September 2009, the above-mentioned information from the author was shared with the State party, along with a reminder of the Committee's request, pursuant to rule 92 of its rules of procedure, to the State party to take measures to ensure the protection of the author and her family while her case is under consideration by the Committee.

#### **State party's failure to cooperate**

5.1 By notes verbales of 15 September 2009, 24 February 2010 and 24 January 2011, the State party was requested to submit information to the Committee on the admissibility and merits of the communication. The Committee notes that this information has not been received. The Committee regrets the State party's failure to provide any information with regard to admissibility or the substance of the author's claims. It recalls that article 4, paragraph 2, of the Optional Protocol obliges States parties to examine in good faith all allegations brought against them, and to make available to the Committee all information at their disposal. In the absence of a reply from the State party, due weight must be given to the author's allegations, to the extent that they are substantiated.

5.2 The Committee further notes with regret that the State party has failed to respond to its request, made pursuant to rule 92 of its rules of procedure, to take measures to ensure the protection of the author and her family while her case is under consideration by the Committee. It recalls that interim measures are essential to the Committee's role under the Optional Protocol, and that flouting of the rule undermines the protection of Covenant rights through the Optional Protocol.

#### **Issues and proceedings before the Committee**

##### *Consideration of admissibility*

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with article 93 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol.

6.2 The Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement for the purposes of article 5, paragraph 2 (a), of the Optional Protocol.

6.3 In the absence of any submission by the State party on the admissibility of the communication, and noting the author's statement that domestic remedies have proven to be ineffective, the Committee declares the communication admissible, in as far as it appears to raise issues under article 6, read in conjunction with article 2, paragraph 3; article 7, read alone and in conjunction with article 2, paragraph 3; article 9, paragraph 1; article 17 and article 23, paragraph 1, of the Covenant.

##### *Consideration of the merits*

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as provided in article 5, paragraph 1, of the Optional Protocol. It recalls that in the absence of a reply from the State party, due weight must be given to the author's allegations, to the extent that they are substantiated.

7.2 Regarding the author's claim under article 6, the Committee recalls that the right to life is the supreme right, from which no derogation is permitted.<sup>13</sup> It further recalls that

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<sup>13</sup> General comment No. 6 (1982) on the right to life, *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40 (A/37/40)*, annex V, para. 1.

States parties have a positive obligation to ensure the protection of individuals against violations of Covenant rights, which may be committed not only by its agents, but also by private persons or entities.<sup>14</sup> The Committee observes that according to the uncontested material at its disposal, the author and her family received a number of direct threats from the police, i.e. agents of the State party, including death threats, seeking to unlawfully coerce them into withdrawing complaints filed by them against police officers. On 20 September 2008, it is reported that the author's husband was shot dead by masked men, three months after two individuals had told the family that they had been instructed by the Negombo police to kill them. After this threat, the author and her husband had filed several complaints, including before the Office of the Deputy Inspector General and the police, but no action was undertaken by the authorities to protect the family. In these circumstances, and taking into account the State party's lack of cooperation, the Committee is of the view that the facts before it reveal that the death of the author's husband must be held attributable to the State party itself. The Committee accordingly concludes that the State party is responsible for the arbitrary deprivation of life of the author's husband, in breach of article 6 of the Covenant.

7.3 As to the claim under article 7, the Committee recalls that the State party has not challenged the evidence submitted by the author to the effect that on 12 November 2007, police officers broke into her residence, beat her husband until he fell to the ground and lost consciousness, hit her with a pistol, punched her 10-year-old son against the wall, hit her daughter with a motorcycle, knocking her to the ground, and later sought to undress her. In the circumstances, the Committee concludes that the author, her husband and their two children were subjected to treatment contrary to article 7 of the Covenant.

7.4 The Committee recalls that criminal investigation and consequential prosecution are necessary remedies for violations of human rights such as those protected by articles 6 and 7 of the Covenant.<sup>15</sup> In the instant case, the Committee observes that the numerous complaints filed by the author have not led to the arrest or prosecution of a single perpetrator. In the absence of any explanation by the State party, and in view of the detailed evidence placed before it, including the identification by name, by the author, of all alleged perpetrators, the Committee concludes that the State party must be held to be in breach of its obligations under article 2, paragraph 3, read in conjunction with articles 6 and 7, to properly investigate and take appropriate remedial action regarding the death of the author's husband, and the ill-treatment suffered by the author and her family.

7.5 Regarding the author's claim under article 9, paragraph 1, the Committee recalls its jurisprudence,<sup>16</sup> and reiterates that the Covenant also protects the right to security of persons outside the context of formal deprivation of liberty. The interpretation of article 9 does not allow a State party to ignore threats to the personal security of non-detained persons subject to its jurisdiction. In the present case, it appears that persons acting in an

<sup>14</sup> General comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 40 (A/59/40 (Vol. I))*, annex III, para. 8.

<sup>15</sup> General comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 40 (A/59/40 (Vol. I))*, annex III. See also communications Nos. 1619/2007, *Pestaño v. the Philippines*, Views adopted on 23 March 2010, para. 7.2; 1447/2006, *Amirov v. Russian Federation*, Views adopted on 2 April 2009, para. 11.2, and 1436/2005; *Sathasivam v. Sri Lanka*, Views adopted on 8 July 2008, para. 6.4.

<sup>16</sup> Communication No. 195/1985, *Delgado Páez v. Colombia*, Views adopted on 12 July 1990, para. 5.5; communication No. 711/1996, *Dias v. Angola*, Views adopted on 20 March 2000, para. 8.3; communication No. 821/1998, *Chongwe v. Zambia*, Views adopted on 25 October 2000, para. 5.3.

official capacity within the Negombo police station have on several occasions threatened the author and her family with death. In the absence of any action from the State party to take reasonable and appropriate measures to protect the author and her family, the Committee concludes that the State party breached the author's and her family's right to security of person, protected by article 9, paragraph 1, of the Covenant.

7.6 The Committee has taken note of the author's contention that police officers harassed her and her family in their home through threatening telephone calls and forced visits, including the severe assault on their home in November 2007, and that subsequently they feared to live in their home and were forced into hiding, and were unable to live a peaceful family life. The Committee also notes the continuing harm resulting from the State party's failure to take any action in response to the Committee's request to adopt interim measures to protect the author and her family. In the absence of any rebuttal by the State party, the Committee concludes that the State party's interference with the privacy of the family home of the author was arbitrary, in violation of article 17 of the Covenant.<sup>17</sup>

7.7 The Committee further takes note of the author's contention of a violation of article 23, paragraph 1, of the Covenant, and finds that the violation of articles 6, 7 and 17, in light of the circumstances of the case, also constitute a violation of these articles read in conjunction with article 23, paragraph 1, of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts as found by the Committee reveal violations by Sri Lanka of article 6, read alone and in conjunction with article 23, paragraph 1, vis-à-vis the author's husband; article 2, paragraph 3, read in conjunction with article 6 and article 7, vis-à-vis the author herself, her husband, and their two children; article 7, read alone and in conjunction with article 23, paragraph 1, vis-à-vis the author, her husband and their two children; article 9, paragraph 1, vis-à-vis the author, her husband and their two children; and article 17, read alone and in conjunction with article 23, paragraph 1, of the Covenant vis-à-vis the author, her husband and their two children.

9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, which includes ensuring that perpetrators are brought to justice, that the author and her two children can return to their domicile in safety, and ensure reparation, including payment of adequate compensation and an apology to the family. The State party should also take measures to ensure that such violations do not recur in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, and to provide an effective and enforceable remedy where a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views, and to have them translated into the official languages of the State party, and widely distributed.

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<sup>17</sup> See communication No. 687/1996, *Rojas García v. Colombia*, Views adopted on 3 April 2001, para. 10.3.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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