

# Sri Lanka: Inquests fail to charge jailers responsible for the killing of two Tamil detainees

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Sri Lankan inquests into the deaths of two Tamil detainees, who were killed during a clash with prison guards in January, have failed to issue a finding of homicide or identify those responsible. Although the police were requested to investigate both cases further, inquiries have dragged out for weeks and no one has been charged or arrested.

Anthony Pillai Jesudasan was killed on January 6, and Sivaratnam Sirikumar the following day as prison officers in riot gear brutally broke up a protest and hunger strike by Tamil detainees at Kalutara prison, 40 km south of Colombo. The jail is a special facility holding hundreds of Tamils—many of them detained without trial under the country's harsh security laws for allegedly being associated with the separatist Liberation Tigers of Tamil Eelam (LTTE).

The killings took place as a pogromist atmosphere was being whipped up by the government and the media following the attempted assassination of President Chandrika Kumaratunga on December 18. The police and military carried out a series of house-to-house search operations in Colombo and its suburbs, detaining thousands of Tamils for interrogation. In the first week of January, an unidentified gunman assassinated Kumar Ponnambalam, a prominent Tamil lawyer and leader of the All Ceylon Tamil Congress.

In that context, the two inquests into the prison deaths have all the elements of an official cover up. The verdicts ignored the eyewitness evidence of other prisoners who said that they could identify the officers involved in the killings. Several jailers have already been identified. But police investigators simply told lawyers for the deceased that the statements of eyewitnesses had been recorded and the matter would be referred to the Attorney General.

The presiding magistrates confined themselves to establishing the cause of death. The first concluded on January 17 that Sirikumar had died of gun shot injuries caused by a firearm used by prison officers. The second found on February 17 that Jesudasan died due to severe injuries and fractures in the skull caused by a blunt weapon.

K.S. Ratnavale, one of the lawyers appearing for the deceased, disagreed in court with the verdict on Sirikumar's death. "In an inquest into the death of a person who died in the custody of state, the magistrate has been given tremendous powers. With the

evidence led so far before this court, the magistrate must not only find the cause of death, but also declare the manner of death as homicide and set in motion the due process of the law."

Ratnavale, who is the convenor of Human Rights Committee of the Bar Association of Sri Lanka, had earlier opposed attempts to hold a closed hearing in the magistrates' chambers. He pointed out that two prisoners had died while in custody of the state and so the inquest should be held in an open place where anyone could come forward with information.

On March 7, the police called for an identification parade in Jesudasan's case. But the process has been delayed until April 6 when the police propose to hold an extraordinary line-up of 157 people, including all prison officers on duty on the day of the killing. The longer the delays, the more likely are eyewitnesses among the prisoners to be subject to intimidation and threats.

Jesudasan, a young man from Vavuniya in northern Sri Lanka, was being held in the "F" ward where detainees were involved in a protest against the miserable conditions they faced. One of their demands was for an additional access door from "F" ward to other wards. At present they are chained every time they are taken to the temple, the library and the medical clinic in other areas of the prison. The prisoners said they also had to pass an army sentry point and feared for their lives.

Initial negotiations between the prisoners and authorities failed. In a discussion on January 6, the Commissioner General of Prisons promised a separate library, temple and medical clinic within the "F" ward but refused the demand for an access door. While making the concessions the Commissioner also demanded a search of the ward, claiming the detainees had hidden weapons and were preparing to riot. The detainees rejected the allegations but agreed to the inspection.

It is now clear that the final round of negotiations was a ploy to allow prison officers in riot gear and armed with batons and other weapons to enter the ward.

Ramesh Mohan, an "F" ward prisoner, told the court that after the talks the detainees had been asked to assemble in the dining area with their bags and belongings. Armed officers entered the ward and asked Thamil Chelvam, a representative of the detainees, to help line up the detainees. As he stepped forward, an officer struck him with a baton, provoking a protest.

"Rocks were hurled at us over the wall. We ran in all directions.

Then came the tear gas attack. I had a burning sensation in my eyes and ran up to the water tank where we were beaten up again by the prison guards,” Ramesh said.

He explained how Jesudasan was attacked. “When Jesudasan tried to run to the other side, seeing the beating, he was also beaten up. I don't know them by name but I know and can identify those who assaulted him. I was watching the incident from a distance of 20 feet.

“I saw very clearly the Commissioner General and his people who came with him at the scene... If any harm should come to me in the prison after this testimony it will be due to what I am saying today.”

The Commissioner General, the top prison official in Sri Lanka, was not subpoenaed to appear at the inquest. But the testimony of K.M.R. Kulathunge, the Kalutara Prison superintendent, showed that the attack on the prisoners was planned in advance.

“At my request a group of guards from Colombo also came with the Commissioner General and his assistants. This was to control a possible riot. The officers of the Kalutara Prison were afraid to go inside the ward,” he said. “Prisoners were out of our officers' supervision for some time so we needed to search the ward. Therefore a group of officers led by Assistant Commissioner Casige went inside the ward to search. Assistant Commissioner Herbert ordered me not to use officers from Kalutara Prison in the search and wanted 12 men from Colombo to perform the job.”

The following day Sirikumar was killed in “C” ward. He had been arrested after coming to Colombo from Jaffna in the north for a course in Computer Studies. He was married with one child.

Pasupathi Dharmaraja, a “C” ward prisoner, explained to the inquest what happened. “On the morning of January 7, we inquired from the officers who came to open the gate about what happened on the previous day in “F” ward. But they refused to say anything about the incident. Then we requested a meeting with the Superintendent, which was also denied to us. Instead they locked the main gate and one officer blew the warning whistle. Then we understood the consequences. We already knew how two of our inmates were cut to death in 1997 in the same Kalutara prison.

“Then we saw a group of guards armed with batons and shields coming towards us and we did not allow them to come inside the ward by pushing back the main door from the inside. At this stage, an officer came forward and said we should be given an opportunity to meet the Superintendent. The Superintendent appeared at the closed door. No sooner had he come than he ordered the officers to ‘charge’. One officer put the barrel of his gun through the peeping hole of the closed main door and fired at the detainees inside indiscriminately.”

Another detainee Abdul Hameed told the court how Sirikumar had died. “An officer who worked in the storeroom shot at Sirikumar. By this time the main door of “C” ward had been broken open. I know the person who fired the fatal shot. I can identify him. Several persons were injured by the shooting... Sirikumar was fasting on that day when he was shot. I was standing close to him.”

Sathgunanathan Santhranathan, another prisoner, testified that he had seen Sirikumar going towards the main door with his hands raised and two officers leading him away. Moments later he heard

gunshots and saw Sirikumar lying on the ground bleeding profusely.

The prison superintendent Kulathunge also testified at Sirikumar's inquest. He told the court he had ordered the use of tear gas and rubber bullets to quell rioting prisoners but not firearms. Later he contradicted himself, saying: “When an officer who was on night duty at Kalutara hospital, guarding the detainees injured on the previous day, returned to hand over the weapons to the armory it was found that he had used a repeater gun. This officer has accepted this fact.” Other prison officers confirmed in court that they had used firearms.

After the deaths on January 6 and 7, as a punitive measure, prison authorities transferred groups of Tamil prisoners to a number of provincial jails, including Badulla, Kandy, Anuradhapura, Batticaloa and Galle, as well as to jails in Colombo. Two of the detainees sent to the Kandy prison were Suppu Udayakumar and Arunasalam Yogeswaran who are among six young plantation workers from the Hatton area detained without trial for over a year on trumped up charges. The Socialist Equality Party in Sri Lanka is campaigning for their release.

They explained to SEP representatives that their lives were in danger in Kalutara prison's “C” ward. “The room that houses convicted Sinhala criminals is only separated from us by a partition made out of a wire-mesh. We all know of the attacks that occurred in the prisons after 1983 when the racist war against Tamils was started. Prison officers always use Sinhala prisoners to attack Tamil inmates. In 1983, they killed 53 prisoners at Welikada prison in Colombo.”

They also spoke of the jail conditions. “We are not taken outside the cells and we have been denied fresh air. Daily provisions such as milk powder, toothpaste, soap and shaving razors are not given to us. Newspapers, TV and radios are prohibited to us. We do not know what's happening outside. Suddenly when a major incident such as a bomb explosion in Colombo takes place, the officers use the opportunity to attack us by stirring up Sinhala prisoners.”

The same danger faces other Tamil detainees. On January 28 Sinhala prisoners, incited by the prison authorities, physically attacked three Tamil women detainees in Colombo's main prison.

The limited character of the inquests and police investigations into the deaths in the Kalutara prison gives jail authorities throughout the island a free hand to continue to use intimidation and physical violence against Tamil prisoners.



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