

Interview 2: SRI LANKA: Sandamani Munasinghe



Sandamani MunasingheMs. Sandamani Munasinghe, a Sri Lankan Attorney-at-Law, has worked as an advisor to the Human Rights Commission of Sri Lanka (HRCSL), several human rights organisations and also assisted in many human rights cases with senior lawyers. She has also worked in the Women in Need organisation, which particularly deals with the problems of women and children.

She made following observations in

answering questions posed to her.

What do you think about the policing system in your country?

I think that we cannot discuss the question of policing in Sri Lanka without discussing many other problems that exist in the country. I can see this more clearly now as I have worked and lived in the Hong Kong SAR for several months and have been able to see the way the policing system functions here. When we compare these two systems we see that there are serious problems in Sri Lanka and one of the most prominent problems is the fact that the Sri Lankan police cannot work independently; indeed, they are not allowed to work independently.

Recently, I have been studying files relating to the disappearances in Sri Lanka. When we examine these files we see how the police officers respond to questions about things that they have done. Their common answer is that they were simply carrying out orders from above.

For example if the police abduct a child who was subsequently disappeared they say, "Don't ask us about these things because we were told to do it. We were given lists and we took these people away. So we were carrying out orders from above". They are not in a position to intervene and give any kind of relief in terms of the law. They are not acting in terms of the law but in terms of orders from above.

What do you think about the use of torture?

I am completely opposed to the use of torture under any circumstances. There can never be any justification for that. The police officers do not have any right in law to use torture.

When a person goes to a police station many problems are reflected by what happens there. If something happens due to someone's negligence the only relief a citizen can expect is to go to the police and complain. But once you go to the police they do not behave as the police do in a developed city. They have no technical knowledge or forensic facilities. They

simply do not have ways to obtain proper evidence. They do not know the methods of doing things. So, if the police are to stop using torture in Sri Lanka they have to have proper training in the use of scientific methods.

So it is quite evident that the police are at fault in the use of torture. However, this is also due to the government itself not exercising its responsibility. The state does not ensure that investigations are carried out in a proper fashion. The government makes no effort to train the police in these matters and so the responsibility lies at many doors.

What are your views on the public relations of the police?

The people have very little faith in the police. Many people believe that the only reason a man becomes a policeman is because he cannot find a job anywhere else. Even among the police themselves there is the psychological atmosphere of inferiority. They feel that there is little or no dignity in their work and that they have no place in society.

As people in civil society we condemn the actions of the police but the police see things from a different viewpoint. They feel that they are succeeding in their work of obtaining information on crimes, even if they engage in torture. Therefore they do not consider torture something demeaning and wrong. They honestly think that they are doing a great job and serving the public. That is the feeling that prevails in the police. They believe firmly in their power and authority.

As a response to the peoples' condemnation of the police they in turn simply resort to further displays of power in order to intimidate their retractors. Therefore there has to be changes in the educational levels, they should be encouraged to act with dignity and this in turn will improve their self esteem.

If you have a problem would you go to a police station to get help?

Anyone having a personal problem will go to a police station only as a last resort. Sometimes I accompany someone to a station in my capacity as a lawyer. I am given a degree of respect because I am there as a lawyer but if I go as a private citizen this does not happen. Even as a lawyer going there for professional reasons I do not receive proper treatment.

Often the officers say, "Why did you come here? We didn't ask you to come, we just asked your client to come. Just wait". And after saying this they take their own time. They say, "If you don't want to wait go and we will deal with your client on our own". And this is what they much prefer because without a lawyer being present they can intimidate the person.

Their attitude is blatantly that this is 'their place' and that 'they are in charge' so why are we, the lawyers, there? This is the treatment that they even give to lawyers. So, to repeat my comment, if I am treated like this as a lawyer, what kind of treatment can I expect if I go as a private citizen?

Is there a domestic violence law in your country and what is your opinion of it?

We have Act No. 34 of 2005 which is about domestic violence. Before we had this law we only had the maintenance ordinance. I have read the circumstances under which this law came into being and there were a lot of expectations about this law.

Of course there is the belief that this law was only brought in to help the women. However, there are provisions within this law for women, men and the protection of children. This law

does not only cover what happens in the home but also the working place where there are provisions for protection. There are also many provisions for the protection of children and there have been many sad instances where both the mother and father have neglected their children. This law provides for circumstances where the children can be protected. There are even provisions where they child can seek this help through probationary services or the police. There are also other organisations that can help. Of course, complaints can be made to the police and they can prosecute cases.

For example in the organisation in which I worked, we intervened in cases for women. However, there are problems due to the lack of understanding about this law. When we intervene on behalf of women the objection that has been brought is, are you not hurting the institution of the family through this law? Is it not better to settle these things privately and amicably? It is necessary to bring the matter to court? So if even the lawyers take this kind of view, then we can see that within society there cannot be that much appreciation of this law.

This law gives power to the police to intervene in women's complaints. However, problems arise because of the nature of the policing system in Sri Lanka. In one case there was a woman, married to a three--wheeler driver, who faced serious death threats. The husband hurt the woman using swords and knives. However, the police took the side of the husband and not the wife. There were many things that the police could have done as the victim was injured but in this case they did not take action.

The organisations that try to help women experience a lot of difficulties from the police who sometimes even refuse to give copies of the complaints made by the victims. This is because the alleged perpetrators influence the police and build relationships with them so that the police harass the victim.

As mentioned previously, the police have the power to prosecute domestic violence cases but they very often neglect or abuse this power. There are a lot of good points in the laws on domestic violence but in order to obtain the relief available there are a lot of obstacles because it has to be done under the existing circumstances of the policing service.

Contrary to the comments of the police this law does not contribute to creating disharmony among families. There are many avenues for settlement even after disputes have arisen. The law merely provides protection when it becomes impossible for people to live together. Therefore the law is good but there are problems relating to its implementation.