



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2003/NGO/145
12 March 2003

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Item 11 (a) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION

Written statement* submitted by Asian Legal Resource Centre (ALRC), a non-governmental
organization in general consultative status

The Secretary-General has received the following written statement which is circulated
in accordance with Economic and Social Council resolution 1996/31.

[3 February 2003]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

Torture committed by the police in Sri Lanka

1. In 1994 the Government of Sri Lanka passed international law against torture into domestic law under legislation mandating seven-year jail terms for convicted offenders. Notwithstanding, torture committed by the police remains widespread and systemic in Sri Lanka.
2. Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) determines that any act of torture or other cruel, inhuman or degrading treatment is an offence to human dignity to be condemned as a breach of the Charter of the United Nations and a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights. The Government of Sri Lanka introduced the CAT into domestic law under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994. This Act provides for a mandatory minimum seven-year prison sentence and fines for guilty offenders. To date, however, the police in Sri Lanka continue to commit torture with impunity and as part of routine investigations.
3. The Asian Legal Resource Centre raised its concerns over the use of torture by the police in Sri Lanka at the fifty-eighth session of the Commission on Human Rights. Last August 2002 it released a landmark special report 'Torture committed by the police in Sri Lanka' (published in *article 2*, vol. 1, no. 4), detailing 22 case studies involving 38 victims, chosen because they vividly depict the crisis that has engulfed policing in Sri Lanka. In only one of these cases has a police officer been found guilty of a criminal act. Since that report, the Asian Legal Resource Centre has publicized details of a further 10 cases, including two involving child victims. In all these cases, the police were engaged in the routine business of ordinary police stations, rather than areas of civil strife, conflict or security operations. Therefore it must be understood that recent initiatives at ending the civil conflict in Sri Lanka, which are to be commended, will not have any direct effect on these practices.
4. Together the cases suggest that in Sri Lanka:
 - a. Torture is practised systematically and criminal investigation typically involves torture.
 - b. When questioned, perpetrator police officers are almost always unrepentant and state that this is the way criminal investigations are conducted.
 - c. Torture is used with the knowledge and approval of higher officers. With a few exceptions, the policy is to permit and encourage torture. While the Seventeenth Amendment to the Constitution requires creation of a complaint office against the police, no such body has been created.
 - d. Police discipline has been undermined by the policy of tolerating torture, and

there is no evidence of serious action being taken against perpetrators of torture, even where the Supreme Court has found some police officers to have committed acts of torture.

- e. The responsibility to implement Act No. 22 of 1994 is with the Attorney General, who is the chief prosecutor in the country. Though the Government of Sri Lanka has reported to international bodies that there is a special unit to conduct investigation under the Act, the Torture Perpetrators Unit, there is no known case of any conviction under the Act.
 - g. There is no established policy to compensate victims of torture. The Government of Sri Lanka cannot be sued directly for compensation due to torture; litigation can be filed only against the perpetrators themselves. Civil action in Sri Lanka can take 10 to 15 years to go through the courts. Even then, compensation will be measured in terms of old Roman Dutch legal principles, where consideration is only of actual medical costs and days of work lost. All these factors prevent civil claims by torture victims, who are also usually very poor, and for whom there are no legal aid schemes for civil suits.
 - h. The consequences of all the above are an inordinate escalation in acts of torture, their level of barbarity and concomitant brutality.
5. Given the above, the Asian Legal Resource Centre warmly welcomes the recent establishment of the National Police Commission of Sri Lanka, in accordance with the Seventeenth Amendment to the Constitution. The National Police Commission, which consists entirely of civilians, fills the institutional gap that has so far frustrated public grievances against the police. It is empowered to appoint, promote, transfer, discipline and dismiss all police officers other than the Inspector-General of Police and, establish procedures to entertain and investigate public complaints and complaints of any aggrieved person made against a police officer or the police service, and provide redress. In the past, delays in dealing with complaints were attributed to problems with the authority necessary to make decisions and see them implemented. The familiar excuse was that there was external interference obstructing any course of action. Now there is no longer any reason to protest that political or other interference has prevented progress. The National Police Commission must from the beginning of its work take steps to implement the law against torture strictly. If it shows real and clear determination to end the practice of torture in Sri Lankan police stations, it will have a salutary effect.
6. The Asian Legal Resource Centre therefore calls on the Commission on Human Rights, and in particular the Special Rapporteur on torture and the Committee against Torture, to
- a. Regard Sri Lanka as a place of special concern, given the prevalence of torture as a systematic practice.. The Commission and all relevant mechanisms must oversee the effective implementation of domestic law designed to prevent torture, and assist the state to improve the prosecutor's function, presently exercised through the Department of the Attorney General.

- b. Insist, as a matter of policy, on measures to eliminate torture and to reform the law enforcement agencies in Sri Lanka.
- c. Applaud the formation of the National Police Commission, and call for the commission to immediately to begin to act in terms of its mandate. If practical setting of the National Police Commission takes too long, the public confidence it has evoked may be lost.. In particular, the National Police Commission must establish some regular procedure to review progress towards the elimination of torture, and, in cases where a prima facie case of torture is established the police officers concerned be immediately suspended from service, and once proven be dismissed. It should also extend full cooperation to the Prosecution of Torture Perpetrators Unit functioning under the Attorney General. The National Police Commission may also order that a notice regarding Act No. 22 of 1994 be exhibited at all police stations, and take other measures to create awareness among the police about this issue. None of these steps requires any new rules or procedures, which may come later, at which time aspects of the elimination of torture will need to be more specifically addressed.
- d. Pressure the Government of Sri Lanka to enact a special law and establish a special unit for immediate and adequate compensation of torture victims, in line with international standards and state obligations under international human rights agreements.
- e. Provide material assistance to improve civil policing, such as by way of improved forensic skills, improved internal supervision of discipline in the police, and opportunities for exposure to more advanced policing systems.
- f. Offer financial and other assistance to establish a comprehensive solidarity network to assist victims, particularly in legal aid, paralegal work and immediate assistance to families.
- g. Assist the National Human Rights Commission of Sri Lanka to reform its management of complaints regarding torture.
