



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/NGO/47
16 February 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 11 (d) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION
OF JUSTICE, IMPUNITY**

**Written statement* submitted by the 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.

[29 January 2004]

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

The role of the national police commission of Sri Lanka in establishing an effective complaint procedure against police

1. In its concluding observations after considering the periodic report of Sri Lanka, dated November 2003, the Human Rights Committee stated that, "The National Police Commission complaints procedure should be implemented as soon as possible" (CCPR/CO/79/LKA [Future]).
2. The National Police Commission (NPC) was appointed at the end of 2002, to a warm public welcome. It was created by the 17th Amendment to the Constitution of Sri Lanka, which aims to depoliticize important national institutions by appointing commissions with constitutional powers over appointments, promotions, dismissals and disciplinary control of employees. The NPC enjoys all such powers, except in relation to the Inspector General of Police. Article 155G2 requires that the NPC establish a procedure for entertaining, investigating and redressing complaints against police personnel and the police service. The Asian Legal Resource Centre has provided the NPC with a draft complaint procedure for its consideration, and understands that this draft is under review.
3. An effective complaint procedure requires clear written steps and practical measures for it to take effect. In its absence, the NPC initially had to refer complaints to the Inspector General of Police, who in turn referred the cases to his subordinate officers, or to a special investigation unit. As this involved police officers investigating other police officers, the procedure lacked credibility. Furthermore, the higher ranking officers who earlier oversaw the conduct of such inquiries are accustomed to making settlements between complainants and alleged perpetrators rather than conducting inquiries in an objective manner. Most complainants were rightly fearful and distrustful of these inquiries. As an interim measure, the NPC has selected and appointed about ten area coordinators to deal with complaints. Until they can establish independent premises, these persons are stationed at the area offices of the National Human Rights Commission.
4. It is claimed that the NPC still does not have adequate resources. While the government has a duty to provide such resources, the proper functioning of an effective complaint mechanism is a separate matter. Proper investigations are obstructed by widespread impunity, which has deep roots in the country's history that have spread since the early 1970s, when draconian powers were given to law enforcement officers on the pretext of curbing dissident elements. The police force in Sri Lanka has been engaged in mass enforced disappearances, torture and extrajudicial killings. To date it is this lifting of disciplinary procedures to make such impunity operative that remains the single biggest problem for policing in Sri Lanka.
5. To deal with this problem, the NPC will have to create a strong disciplinary procedure and enforce it. At the moment, hundreds of police officers—including senior police officers—who have been found by the Supreme Court to have violated the rights of citizens by way of torture, illegal arrest and illegal detention are still serving. Despite trenchant public criticism of this situation, there has to date been no serious attempt to deal with it. In several recent cases the Supreme Court has ordered the NPC to hold disciplinary inquiries. The Court also has pointed to the responsibility of higher-ranking officers to enforce discipline and prevent human rights

violations by their subordinates. Notwithstanding, the police persist in committing grave abuses, and the manner with which they are dealt has not significantly changed.

6. The NPC needs to inculcate in the police force a serious understanding of the gravity of offences such as torture, extrajudicial killing and enforced disappearance. A clear disciplinary code is also urgently required, and should be included in any training programme for police. If such steps are taken they may begin a dramatic—albeit difficult—change within the police force, forcing it to decisively abandon past practices. Without an effective operating complaint procedure, however, no such change can ever be expected.

7. The above recommendation of the Human Rights Committee should be complied with as soon as possible. The Committee has required the Government of Sri Lanka to report on this and several other matters within a year. The Asian Legal Resource Centre sincerely hopes that the NPC will make every effort to establish an effective complaint procedure within this time.
