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**EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:
NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS**

**Written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organisation 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.

[26 January 2005]

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

Poor quality staff undermining work of Human Rights Commission of Sri Lanka

1. The Asian Legal Resource Centre has over a number of years commented to the Commission on deficiencies in Human Rights Commission (HRC) of Sri Lanka [most recently, E/CN.4/2004/NGO/24]. In this statement the ALRC establishes how, despite its recomposition and development of a strategic plan, the HRC is struggling to meet its mandate due to the poor quality of its staff.

2. A new batch of commissioners was appointed to the HRC on 3 April 2003 and with them a three-year strategic plan was devised. The HRC declared its aims to develop

a. Stronger institutions and procedures for human rights protection, and a culture among all authorities of human rights awareness and accountability;

b. Public awareness of fundamental and other human rights, and a willingness and capacity to enforce them; and,

c. Itself into an efficient and effective organisation able to fulfil its mandate to promote and protect the human rights of everyone in Sri Lanka.

3. The HRC also adopted a 'zero tolerance' policy regarding torture, and launched a Torture Prevention Unit. The unit was intended to begin investigations on torture cases within 24 hours, question officers-in-charge of police stations where deaths in custody had taken place, and interdict police found guilty of torture by the HRC or the Supreme Court. It was also proposed that a memorandum of understanding be entered into between the HRC and the Inspector General of Police to ensure direct accountability for cases of torture at police stations and to seek the interdiction of officials who were found to have violated fundamental rights.

4. However, these new policies have been poorly realised, due mainly to the poor quality of HRC staff. An internal investigation found that an estimated 81 per cent of permanent staff lacked the required qualifications for their posts. Some holding important posts as investigators did not have even the GCE Advanced Level qualifications, the minimum prerequisite. At least one of the regional coordinators did not even have a GCE Ordinary Level certificate (grade 10) although he was supposed to be in charge of a very large province.

5. Other weaknesses include

a. Poor working habits formed under previous commissioners, who made no attempts to nurture understanding of basic human rights norms and standards.

b. Lack of supervision by commissioners, as none are engaged full time.

c. Lack of skilled professionals who are knowledgeable in investigation and mediation procedures.

d. Ineffectiveness of education programmes.

6. Many of these problems were manifest in the highly publicised case of the HRC Kandy Area Coordinator. These arose first in relation to a complaint of torture in which the area

coordinator allegedly colluded with the police. Numerous other complaints then arose, including one relating to thirteen missing files. When the coordinator was transferred, a staff union was formed and a strike followed. A case has now been filed in court.

7. The difficulties in dealing with the numerous transgressions of the Kandy Area Coordinator all spoke to the fact that since its inception the HRC has not developed any internal disciplinary code or procedures. In their absence, the HRC has had to follow the antiquated Establishment Code. As human rights work demands higher than average moral standards, this default arrangement is clearly unsuitable, and should not be allowed to continue, lest it further damage public faith in the institution. Perceptions of bias towards perpetrators, corruption or negligence have more debilitating effects on a human rights commission than they do on other state agencies. The HRC needs its own disciplinary code, laying down standards and criteria for staff behaviour at different levels and in different posts, with particular regard to investigation officers.

8. In the past year HRC staff made some serious attempts to visit places from where complaints of illegal detention and torture had been received. However, these staff came under attack, on two occasions facing direct physical threats and assault. Worse still, rather than come to the defence of these personnel, in a circular of 27 September 2004 the then Inspector General of Police placed limits on the rights of HRC staff to visit police stations. The circular stipulated that human rights officers who are coming for inspections must inform the concerned assistant superintendent of police before entering the premises. The effect of this directive is to grant perpetrators the time to remove torture victims before the inspecting officers arrive, thereby negating the whole purpose of these visits. The practical consequence of this circular has been to discourage human rights officers from visiting places of detention, and to encourage police officers to engage in torture without fear of being detected. The directive in this circular must be retracted if torture is to be stopped in Sri Lankan police stations.

9. The HRC reacted quickly and effectively to the tragic killing of well-known torture victim, Gerald Perera on 21 November 2004, which has been described in a separate statement by the ALRC on torture in Sri Lanka. The HRC expressed concerns that the killing would discourage victims from making complaints. It called the offices of the Inspector General of Police and the attorney general for a meeting, and inquired as to what action would be taken to prosecute the offenders. It also pressed the officials to ensure that the criminal case pending against the police accused of torturing Perera would continue, and that suitable action would be taken for the prevention of similar occurrences. The HRC also designated a lawyer to represent it at the hearings in the case. Its quick reaction and decision to intervene directly in the case set the standard for the work that it should do into the future. In fact, the HRC should consider having legal counsel present at all torture cases filed under the Convention against Torture Act, No. 22 of 1994.

10. The HRC has not as yet developed any programmes for trauma counselling and healing for victims of torture and other gross human rights abuses. The destruction caused by the recent tsunami has also created a huge number of victims, including orphaned children, deeply in need of treatment for trauma. It is essential that the HRC look into this area as a key component to its work.

11. However, the greatest problem facing the Human Rights Commission of Sri Lanka is the quality and discipline of its staff. In this regard, the Asian Legal Resource Centre recommends that the HRC

- a. Adopt a disciplinary procedure without delay and take action against all officers who are unwilling or unable to discharge their duties specifically in accordance with the HRC mandate.
- b. Lay down the basic ethical standards required of the staff, particularly when dealing with alleged perpetrators of human rights abuses, and respect the confidentiality of information provided by victims and their advocates.
- c. Enforce rules to eliminate habits of receiving gifts or other favours.
- d. Bring in more qualified staff and assign them to more senior positions.
- e. Encourage committed volunteers with the required qualifications and moral standing to join in the work.
