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

**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.

[7 February 2005]

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

DEPLORABLE CONDITIONS OF DETENTION IN INDIA

1. The Asian Legal Resource Centre (ALRC) would like to draw the Commission's attention to the conditions of prisons in India, which are deplorable. The money spent on prison reforms and the development of their basic amenities is negligible. The Government of India ignores the plight of thousands of citizens languishing in custody under horrifying conditions. It is common to find convicts and pre-trial prisoners held together in crowded cells, without proper facilities for basic human existence like fresh air, moving space, decent food, clothing, medical attention and communication. Many are murdered, tortured and face other abuses at the hands of fellow detainees and the authorities.

2. Particularly worrisome is the condition of juvenile prisoners. The Prisoners Act of 1900 (Act No. 3 of 1900) regulates India's prisons and all aspects of prisoner management to this day. State Governments can also legislate wherever permitted by this Act. Apart from the Prisoners Act, all states except for Nagaland have acts on children that provide for the management of juvenile prisoners.

3. Despite legislation protecting juvenile prisoners, children committed to prisons in India experience extreme cruelty and neglect. In most cases, juvenile prisoners are put together with hardened criminals. They are often sexually abused and compelled to do hard labour. Older detainees make them do the heavy work allotted to them, usually in connivance with jail officials. This takes place in spite of a Supreme Court ruling stating that care be taken to ensure such practices do not occur.

4. Legal provisions for the counselling of children are often ignored. The government does not concern itself with appointing mental health professionals to vacant posts, and where it does the persons filling them are invariably inexperienced and ill-motivated, defeating the purpose of counselling. Children are frequently denied access to their parents and it is also common for prison officials to demand 'gifts' from parents coming to meet their children.

5. Corrupt prison officers also arrange preferential treatment for prisoners with connections to crime bosses. Such treatment may be the provision of entertainment – including sexual pleasures, often at the expense of another inmate's liberty and body – unrestricted movement inside the jail, and uninterrupted visitor sessions. Meanwhile, common convicts in the same jail will be denied even basic facilities. In Viyyur Central Jail, Kerala, affluent prisoners are allowed to bring food from the best hotels in town, a share of which goes to the prison officials and other designated inmates. They also enjoy the privileges of freshly ironed clothes brought from home, the use of mobile phones, and comfortable beds with pillows and mosquito repellents.

6. Jail rules often provide for inspections by higher officials, and sometimes by judges or the State or National Human Rights Commissions. During these inspections, however, inmates are not in a position to make complaints, since jail officers accompany the visitors. Anyone daring to make a complaint faces the consequences once the inspection is over. In a case reported from the Viyyur Central Jail, contraband drugs were allegedly seized from a convict. However, at the trial it was proved that he was being falsely implicated because he had tried to lodge a complaint about prison conditions when a local magistrate made a visit to the jail.

7. Maltreatment of prisoners is common throughout India. In Kerala, for example, every male convict entering prison must face the ordeal of 'jail call'. Immediately on arrival, the

prisoner is told to bend down, after which a few heavy blows are delivered, causing serious pain along the length of the victim's spine. The inmate's cries of pain can be heard throughout the prison, and so this is known as the 'jail call'. While female inmates do not get this treatment, they suffer continuous ill treatment throughout custody, often including sexual harassment and rape.

8. In a country where the privacy of free citizens is often at stake, it comes as no surprise that prison inmates have none at all. Jail wardens read all letters coming in and out. Although done on the pretext of ensuring security, this is an unquestionable intrusion into inmates' civil rights. Prisoners are also denied the right to vote while in jail.

9. In these circumstances the Asian Legal Resource Centre requests the Commission to pressure the Government of India to:

- a. Ratify the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to implement the spirit of the convention domestically.
- b. Take immediate steps to reform its prison systems and management, thus providing for humane conditions within every prison.
- c. Undertake immediate measures to attend to specific and special care for juvenile and female prisoners in India so that they are not held in common places with male prisoners.
- d. Take immediate steps forthwith to reduce overcrowding of prisons in India.
- e. Ensure prison officers are held accountable for any injuries or violations against detainees.
- f. Make appropriate arrangements so that the National and State Human Rights Commissions in India are provided free and fair access to prisons in the country and that the recommendations of such commissions are implemented.
- g. Make appropriate arrangements through the judiciary so that the period of under trial detention is reduced to a minimum in India.
