



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/NGO/63
11 February 2005

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 11(a) of the provisional agenda

**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.

[26 January 2005]

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

THREATS TO LIVES OF TORTURE VICTIMS IN SRI LANKA AND THE LACK OF WITNESS PROTECTION

1. On 21 November 2004 Gerald Mervin Perera, the victim in a well-known torture case, was shot as he was travelling to work in a bus in the early hours of the morning. In his pocket was the summons issued by the High Court of Negombo for him to give evidence of torture against several police officers. His case had been taken earlier to the Supreme Court where a bench of three judges unanimously decided that he had been severely tortured after being arrested on mistaken identity.
2. The judgement received wide publicity. A few days before the shooting, Mr Perera had told several persons that he had been pressured to accept Rs. 5 million (US\$50,000) and issue a document stating that his original statement was false. He refused to do this and shortly thereafter was shot. The police inquiry into this case was handed over to the Criminal Investigation Department and after some time and much pressure one police officer and an underworld character were arrested on suspicion of Mr Perera's murder.
3. This murder has raised serious concerns about the future of cases under the Convention against Torture Act of Sri Lanka (Act No. 22 of 1994). If a chief witness were killed before a trial takes place, then it would be virtually impossible to proceed with the criminal trial as required under this act. The result might be that more alleged perpetrators accused in criminal cases, particularly those involving torture, may resort to the killing of key witnesses in the hope that trials against them will be withdrawn. Indeed, there have been other cases where there have been attempts at murder and serious torture of victims for a second time with the expectation that legal proceedings will be terminated due to a lack of evidence.
4. Though the Convention against Torture Act of Sri Lanka was adopted in 1994, hardly any cases were filed until there was a serious civil society campaign and pressure from the international community to enforce it. As a result, according to statistics given by the Attorney General's department, about 40 cases are now pending before various high courts. In two cases there have been convictions. These two convictions and the increasing number of investigations leading to the filing of more cases have had a chilling effect on the police in recent months. The use of torture, once accepted as the only mode of conducting criminal investigations, has now become a visible offence carrying a mandatory seven-years' imprisonment and of a fine Rs. 10,000 (US\$100.00).
5. Though serious representations have been made to the Inspector General of Police, Attorney General and other relevant state agencies to implement a witness protection programme, there has been no attempt to bring about such a programme through the law. Although regrets are expressed over deaths, no positive attempt has been taken to introduce a witness protection programme and to provide resources for it.
6. Under these circumstances victims of torture who take cases to trial are faced with serious danger. On the one hand they wish to have the perpetrators of torture punished. On the other hand they are afraid of jeopardising the life and freedom of their family members and also themselves. Many torture victims have relocated to other areas in search of security.

7. In light of the above, the Asian Legal Resource Centre urges the Commission to take the necessary steps that the Government of Sri Lanka

a. Make legal reforms in order to protect victims of crime in general and victims of torture in particular.

b. Take immediate action to bring about a witness protection law and also to provide the necessary resources for the functioning of such a law.
