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**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).

International Mechanisms must be strengthened to address Endemic Impunity in Asia

1. From years of research and work, the Asian Legal Resource Centre has concluded that defective policing systems are primarily responsible for the endemic impunity that persists in Asia. Despite widespread recognition of impunity as a regional problem, however, there is no evidence of efforts to bring it to an end through police reforms. There is a distinct absence of state policies intended to bring policing within the rule of law and under the strict control necessary to prevent violations of human rights. In many countries, the concept of rule of law is promoted only in relation to the ordinary citizens and not to law enforcement agencies. The unstated policy is that law enforcers may do whatever they wish in order to ensure that the citizenry are kept in check. A few recent examples serve to illustrate—in each of these cases the Asian Legal Resource Centre has submitted a separate written statement to the Commission detailing its concerns:

- a) In Thailand, over 2500 persons were extrajudicially killed in 2003 on allegations of drug trafficking. The government has denied responsibility for most of the killings, and the Minister for Justice has reportedly stated that in those cases where extrajudicial killings occurred they were 'justified'.
- b) In Myanmar, police and soldiers orchestrated an attack by armed thugs on a convoy carrying political opponents to the military regime on 30 May 2003, resulting in the reported deaths of at least 70 persons. The government subsequently accused the victims of the attack of being responsible for the atrocity.
- c) In Gujarat, India, in 2002 large sections of the society were mobilised by politicians and aided and abetted by the police in carrying out mass destruction, killings and other horrendous abuses against the local Muslim population. No action has been taken against the law enforcement officials implicated.
- d) In India, Nepal, Sri Lanka, Pakistan, Cambodia, Indonesia and Malaysia custodial deaths and torture
by the police continue unabated.

2. When the police are given freedom to act as they see fit to deal with alleged violations of the law, it is usually because politicians and other powerful persons are using them to deal with opponents. Behind most of Asia's defective policing systems are political interests. Some brief examples follow:

- a) In Sri Lanka, it is widely accepted that the policing system is completely politicised. A constitutional amendment to establish the National Police Commission has been an important step to deal with this situation; the Asian Legal Resource Centre has submitted a separate written statement to the Commission on this topic.
- b) In Pakistan and Myanmar, the police are under the total control of military regimes, which deeply affects how they are perceived and managed.

- c) In Indonesia too, the role of the police was coopted by the military during the three decades of military dictatorship there. Though military rule has officially ended, the development of an effective civilian police force remains extremely difficult due to the entrenched attitudes and persistence of an established order where they are subject to political control that grew out of the years of repression.
- d) In Singapore and Malaysia, the police follow the orders of political authorities to arrest and detain their opponents under national security legislation.
- e) In Cambodia, the police emerged from a party-controlled system and were not reorganised to make them responsive to civilian demands. The police hierarchy is closely linked to the political system, and therefore subject to its control.

3. Failure to hold police accountable for their actions under the rule of law is one of the greatest challenges facing state signatories to the International Covenant on Civil and Political Rights (ICCPR). The ICCPR holds that all rights it contains are available to all persons, and law enforcement agencies are under an obligation to respect these rights. In this respect, the Asian Legal Resource Centre submits the following:

- a) Existing international human rights mechanisms are not adequately developed to monitor and respond to defects in national policing systems to ensure compliance with the ICCPR and the rule of law. The Human Rights Committee should seek much more detailed information from state parties on the nature of policing, with a view to developing more comprehensive mechanisms to ensure compliance with international instruments.
- b) International agencies should reconsider how they allocate resources for technical development and implementation of human rights standards in compliance with article 2 of the ICCPR. Often, substantial resources are used to train police in human rights, but these programmes are of little use when the policing system is fundamentally flawed and subject to extraneous influences. Time and money would be better spent on detailed studies of policing systems with the intention to engage governments for the improvement of these systems, rather than giving lectures on human rights. Police respond to discipline, and technical assistance to this end, particularly ensuring that punishments are imposed and carried out against human rights violators, will go much further than that used for training programmes.
- c) Above all, proper implementation of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, by making torture a crime and ensuring its implementation, would go a long way in bringing the police under the rule of law in countries across Asia.
