

**Follow up to the case by the AHRC**



# ASIAN HUMAN RIGHTS COMMISSION

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January 16, 2008

Mr. C.R. De Silva  
Attorney General  
Attorney General's Department  
Colombo 12  
SRI LANKA

Fax: +94 11 2 436 421

Dear Mr. De Silva,

**Re: Sri Lanka – Failure to provide adequate remedy regarding torture of  
Raththinde Katupollande Gedara Dingiri Banda – Communication No.  
1426/2005 (30<sup>th</sup> October, 2007)**

This is to bring to your notice that Mr. Raththinde Katupollande Gedara Dingiri Banda, who was severely tortured on 21 October 2000 by two army officers, has still failed to receive adequate redress for the violation of his rights.

I draw your attention to the view adopted by the United Nations Human Rights Committee on 26 October 2007 regarding the communication made by Mr. Raththinde Katupollande Gedara Dingiri Banda against the government of Sri Lanka. The Human Rights Committee clearly held that Mr. R.K.G Dingiri Banda's rights have been violated as no adequate remedy has been provided to him. The Committee held that no action has been taken in terms of the CAT Act, No. 22 of 1994, that a case in the Magistrate's Court has been delayed all these years and that no compensation has been paid to him. I draw your attention particularly to the following paragraphs of the HRC view:

7.4 Under article 2, paragraph 3, the State party has an obligation to ensure that remedies are effective. Expedition and effectiveness are particularly important in the adjudication of cases involving torture and other forms of mistreatment. The Committee considers that the State party may not avoid its responsibilities under the Covenant with the argument that the domestic courts have already dealt or are still dealing with the matter, when it is clear that the remedies relied upon by the State party have been unduly prolonged and would appear to be ineffective. For these reasons, the Committee finds that the State party has violated article 2, paragraph 3, read together with article 7 of the Covenant. Having found a violation of article 2, paragraph 3, read together with article 7, and in light of the fact that the consideration of this case, as it relates to the claim of torture, remains pending before the Magistrate's Court, the Committee does not consider it necessary, in this particular case, to determine the issue of a possible violation of article 7 alone of the Covenant..

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal violations by the State party of article 2, paragraph 3, read together with article 7 of the Covenant.

9. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including adequate compensation. The State party is under an obligation to take effective measures to

ensure that the Magistrate's Court proceedings are expeditiously completed and that the author is granted full reparation. The State party is also under an obligation to take measures to prevent similar violations in the future.

The full text of the view of the HRC can be found at:  
[http://www.alrc.net/doc/mainfile.php/un\\_cases/461/](http://www.alrc.net/doc/mainfile.php/un_cases/461/)

We request that you take appropriate action to prosecute the perpetrators of the torture against Mr. R.K.G Dingiri Banda and also assure legal redress including compensation.

Thank you.

Yours sincerely,

Basil Fernando  
Executive Director  
Asian Human Rights Commission



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January 16, 2008

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Special Rapporteur on the Question of Torture  
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SWITZERLAND

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[http://www.alrc.net/doc/mainfile.php/un\\_cases/461/](http://www.alrc.net/doc/mainfile.php/un_cases/461/)

We request your kind intervention with the Sri Lankan government to ensure that Mr. R.K.G Dingiri Banda be assured of legal redress including compensation.

Thank you.

Yours sincerely,

Basil Fernando  
Executive Director  
Asian Human Rights Commission