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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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.

[14 February 2011]

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

Bangladesh: Government urged to ratify forced disappearances convention and address impunity

The Asian Legal Resource Centre (ALRC) is gravely concerned by the ongoing incidents of enforced disappearance in Bangladesh. The law-enforcement agencies and paramilitary forces, particularly the police, the Rapid Action Battalion and the armed forces, are directly involved in the abductions of persons and their subsequent disappearances. The executive authorities endorse these actions while the country's courts of law remain incapable of protecting citizen's rights from such heinous crimes.

Bangladesh, which acceded to the International Covenant on Civil and Political Rights (ICCPR) on September 6, 2000, has the obligation under international law to protect the rights to life, liberty and security of its citizens.

According to Article 2 and 6 of the ICCPR, Bangladesh has the obligation to ensure the right to life of its people, and ensure prompt and effective reparation where violations occur. It is also obliged to bring legislation into conformity with the ICCPR. Article 32 of the Constitution of Bangladesh protects the fundamental right to life and liberty, stating that: "No person shall be deprived of life or personal liberty, save in accordance with law." Yet this has not been implemented in reality and this most fundamental right is being repeatedly violated with complete impunity.

Enforced disappearance is frequently being used a tool by the country's law-enforcement agencies and paramilitary and armed forces to detain and even extra-judicially execute individuals. According to cases being documented by the ALRC's sister organization, the Asian Human Rights Commission, state agents typically wear plain clothes at the time of the abduction of the victims. None of the police stations in the country register a proper complaint regarding allegations of abduction whenever the law-enforcing agencies are named in the complaints. Instead, all the agencies, in chorus, deny their involvement in the alleged abductions.

The ALRC has documented interviews of a number of families that allege that their relatives were disappeared after they had been picked up by the plain-clothed armed men that claimed to be from the Rapid Action Battalion (RAB). According to the reports received, three previously disappeared persons have returned to their respective homes after lengthy detention periods in secret torture cells operated by the RAB. Another disappeared man, named Mr. Forkan, who returned home after few months of being disappeared, has again been disappeared after he told the media about his experiences during detention in the RAB's secret torture cells. Most disappeared persons do not resurface and there remain serious concerns that they have in fact been extra-judicially killed by the State.

After returning from the secret detention centres, the victims have remained extremely scared about their own as well as their relatives' safety, and have requested not to be named publicly when describing their experiences. They were all picked up by plain-clothed armed men, who introduced themselves as being officers of the RAB. They were handcuffed and blindfolded at the time of arrest. They were taken into the RAB's custody and detained for several months in unknown locations without any contact with the outside world. During detention, they were reportedly tortured on a regular basis. They had been detained for four to eight months without any accessible records being kept by any of the country's institutions. After prolonged detention they were driven a few hundred miles away from their place of detention and dropped off in isolated rural areas during dark nights still wearing blindfolds. In all cases, the persons were then arrested by the local police, who informed the relatives to pick them up. During their disappearance, prior to being surfaced, the victims were subjected to serious intimidation by the Rapid Action Battalion's officers, including death threats.

The relatives of the disappeared are initially prevented from exercising their right to register a proper complaint regarding the alleged abductions, as the abductors introduce themselves as being officers of the Rapid Action Battalion or as "government's officers" and claim to have "instructions from superior authorities" to take the victims away. There has not been a single recorded instance, amongst the case documented by the ALRC, in which the perpetrators of the abductions and disappearances have shown specific documents or warrants issued by courts or referring to particular criminal cases against the abducted person. The state agents that are committing these abductions are therefore using extra-judicial methods to detain persons, but are clearly so confident that their actions will benefit from impunity that they often identify themselves to the victims and their relatives. In fact, as the police do not register any complaints when members of the authorities are involved in such actions, the members of the RAB and other agencies, will identify themselves in order to ensure that investigations are not carried out and that impunity prevails. In order to ensure that specific identification is not possible, however, the perpetrators do not wear their uniforms at the time of the abductions. Typically, the heavily armed abductors make use of several vehicles without registration numbers. The authorities do not carry out any credible investigations regarding the allegations of disappearance, citing the excuse that there has been no complaint registered with the police to justify their inaction.

Instead of taking any visible, credible or effective action to investigate the cases of enforced disappearance, the government of Bangladesh has instead harassed journalists and threatened to close media concerns for asking questions to the country's Home Minister regarding disappearances. Several journalists have received threats by telephone from high ranking officers of the Rapid Action Battalion, regarding which the relevant United Nations Special Procedures have been informed.

Extra-judicial deprivation of life and liberty continues unabated in Bangladesh, as its judiciary, including the Supreme Court, which has obligation to protect the constitutionally enshrined fundamental rights of the citizens, is utterly failing to ensure that any legal remedies are available to victims or their families regarding enforced disappearances.

This represents a violation of Article 31 of the Constitution, which reads:

"To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law."

The government and the judiciary are visibly disregarding their obligations under constitutional provisions, as far as the protection of citizens under the supreme law of land is concerned. People's rights to life, liberty and security are being violated by State-agents without any effective legal remedies being available. Entrenched impunity within the institutional system and the mindsets of officials and politicians ensures the recurrence of gross human rights abuses and undermines the perceived security of Bangladesh's people.

Bangladesh urgently requires thorough reforms to its criminal justice system. Complaint mechanisms must be open and free from any kind of refusal, resistance, threats and intimidation. Criminal investigations into allegations of human rights abuses by State-agents must be performed by an independent and efficient agency. There should be an independent, a-political, permanent and accountable prosecutorial authority. The country's judiciary should be made truly independent and competent to deliver justice, and be rid of the discrimination and corruption that plagues it at present.

Bangladesh has been a member-state of the Human Rights Council for more than four years now. As such, not only does it have international obligations to protect its citizens' rights,

but it should do so to the highest possible standards. The nation has however failed to comply with its international obligations concerning so many key human rights and has done little if anything to address the many serious rights abuses that continue to be perpetrated by state agents.

The Human Rights Council is being weakened as a result of its inability to address the human rights situations in non-cooperative countries, including many within its membership. Bangladesh has repeatedly failed to ensure the requisite cooperation with the HRC's Special Procedures, for example. Only a few mandates have been allowed to conduct country visits, and these have not included the mandates on the independence of judges and lawyers, on extra-judicial killings or on the freedom of expression, all of which have had requests pending for several years. The need for greater cooperation with the Working Group on Enforced Disappearances is also crucial given the growing problem of enforced disappearances being witnessed in the country.

The ALRC notes that the Council has failed to discuss or take any credible action concerning the wide-ranging human rights violations that have taken place in Bangladesh since the body was created. It appears there is a lack of interest and political will to address the country's situation, despite the severity and scale of the violations taking place there. The government's efforts to silence its critics domestically have no doubt contributed to this fact and this will only be accentuated if the Council's passivity is turned into complicity by allowing the country to continue perpetrating such grave human rights violations as enforced disappearances and extra-judicial killings without any repercussions.

The Asian Legal Resource Centre therefore urges the members of the Human Rights Council to urge the government of Bangladesh to take all necessary measures to effect immediate and verifiable change concerning the issues of arbitrary deprivation of life, independence of the judiciary and impunity. If no action is taken to halt violations, provide remedies and hold those responsible accountable for these grave abuses, Bangladesh's membership in the Council will continue to prove to be an embarrassment for this body and obstruct its credibility and ability to deliver on its goals. The government of Bangladesh must immediately stop enforced disappearance and other gross violation of human rights. Bangladesh must, without delay or reservations, ratify the International Convention on the Protection of All Persons from Enforced Disappearance. The government is also urged to promptly and unconditionally grant the requested visits by the Special Rapporteur on extra-judicial, summary or arbitrary executions and on independence of judges and lawyers, as a priority.
