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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, 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.

[11 February 2013]

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

Bangladesh: Government lacks ‘political will’ to legislate anti-torture bill

1. The Asian Legal Resource Centre (ALRC) once again reiterates the urgent need of criminalisation of torture in Bangladesh where torture is an endemic problem. Torture has been inseparable and deeply entrenched within the law-enforcement and investigation systems of the government. Visibility must be the responsibility of the UN Human Rights Council toward its long-standing member-State. Bangladesh maintains a blatant impunity towards torture by state-agencies, denying survivors access to justice for the heinous crimes perpetrated against them.
2. Throughout the entire country, the police have made torture a way of life in Bangladesh. People are tortured in every step of their day-to-day life. This occurs particularly at the time of arrest, during arbitrary detention of crime suspects, and in police remand for confession statements at the investigative stage of the criminal case. They use torture as a tool for extorting bribes from detainees and crime suspects.
3. The police institutionally possess a coercive mind-set often lacking a professional manner and efficiency of action. As a result they disregard their duty to uphold the rule of law. Torture and ill-treatment are widely used at the time of arrest. An official warrant issued by a competent court is not presented to the victims and this is followed by arbitrary detention. Crime suspects are often detained for days or weeks without any public record of their arrest. Torture of detainees is done mostly to extort money from relatives, hoping that this will force the detainee into giving the confession statement that the police want. Failure to produce the amount of bribe money demanded by the police can cause brutal forms of torture on the detainees with fabricated criminal cases made against them.
4. Furthermore, the police put the detained persons in remand. It is an excuse to effect a longer interrogation of the suspects. At this time, investigation officers and fellow personnel torture the detainees for their inability to pay the bribe and make a confession statement. In actuality, an industry for the generation of torture has been informally set up to inflict harm on an innumerable number of victims. This ‘business’ has been set up in all the police stations, barracks, interrogation cells such as the Task Force for Investigation (TFI) cell and other departments like the Criminal Investigation Department (CID), Detective Branch (DB) and Special Branch (SB).
5. Torture is also used routinely as a tool to suppress political opponents. Police and other law-enforcement agencies, paramilitary, security forces and intelligence agencies are hired directly as muscle-men. Government as well as political parties and bureaucrats at the centre of power engage in these activities for political, personal or commercial gain.
6. Beside the police, the Rapid Action Battalion (RAB), (a paramilitary force composed of armed forces, border guards and the police regarded by the authorities as an "elite force"), has the reputation of "licensed killers." This is due to its record of direct shoot-out, extra-judicial killings, enforced disappearance and torture. It maintains specialised torture cells with sophisticated equipment to torture detainees. The armed forces and intelligence agencies operate their own secret torture cells where detainees are kept for indefinite periods without any information provided to their families. There is also a specialised team, the Joint Interrogation Cell (JIC), who torture people in its cells while they are supposedly just under investigation.
7. Every year in Bangladesh, torture causes innumerable deaths and severe physical disabilities to many people. No records or statistics of the number of victims or level of physical, social and economic losses is maintained by the authorities. Survivors of torture are also denied access to adequate medical treatment for their injuries sustained as a result

of torture. Victims and their families, medical doctors and health professionals throughout the country are also subject to harassment while caring for those who were tortured.

8. Torture goes on unabatedly. And why is this? Because the complaint mechanisms, mostly controlled by the police, do not allow survivors access to register formal complaints with the police. In addition, most cannot afford the costs of hiring a lawyer to file a complaint with the Magistrate's Courts. Magistrates lack judicial mindsets to ensure justice for the victims of torture and human rights abuses. Instead they pave the way for perpetrators to walk free due to the fact that the police control both the investigation and the prosecution at the Magistrate's Court. Incidentally, this Court is where all types of criminal cases begin and remain until the end of the investigation leading to the framing of charges.

9. And now we come to the prosecutors who are appointed by the ruling political parties after every new Government assumes office. They replace the prosecutors by candidates from the prosecutorial service on the basis of their political affiliation. In action, these prosecutors maintain close affinity with the ruling party and with the police. The police also act as hired musclemen for the Government, to cover up crimes of state-agents. Such practices deny the right to justice and judicial remedy for the survivors of torture and other gross abuses of human rights.

10. With the above-mentioned practical hurdles entrenched within the criminal justice systems of the country, 'torture', as such, is not defined in the domestic legislation although the Constitution of Bangladesh prohibits torture and ill-treatment as its Article 35 (5) which reads:

"No person shall be subjected to torture, cruel or inhuman or degrading punishment or treatment".

11. As a State-party to the ICCPR and CAT, Bangladesh is under international obligation to protect its citizens from torture and it must ensure justice for the victims of torture with reparation offered as well. Fourteen years ago the nation ratified the CAT. But, as matter of great shock, the country has not criminalised torture in its domestic legislation although a draft law titled "Torture and Custodial Death (Prohibition) Bill-2009" remains pending since 10 September 2010 before the national parliament. The Bill has already been reviewed by the relevant Parliamentary Committee, which unanimously recommended legislation of the Bill to be put into effect immediately. The review report¹ was submitted on 10 March 2011. As the ruling political party alone has more than 271 seats out of 350 seats in parliament, it alone is capable of legislating an anti-torture law to prove its commitment to end this heinous crime. And, the government, led by the Bangladesh Awami League has not fulfilled its priority election pledge of stopping human rights abuses.

12. A prolonged silence regarding the pending bill appears to testify to the absence of a political will of the government to criminalise torture and allow the survivors to get justice. It 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."

¹ <http://www.humanrights.asia/countries/bangladesh/laws/legislation/CommitteeReportOnBillCriminalizingTorture10Mar2011-English.pdf>.

13. In truth, neither the government nor the institutions related to the criminal justice system pay convincing attention to this constitutional provision-- protection of its citizens under the supreme law of the land. The people's rights to life, liberty and security are endangered by state-agents without any room left for an available or expectable legal remedy. Entrenched, institutional impunity coupled with the mindsets of professionals and power-centred- politicians, who promote and patronize state-sponsored lawless actions cause two things to happen. They pave the way for the recurrence of similar incidents of gross human rights abuses and multiply people's problems in their search for a safe and harmonious life within Bangladesh society.

14. Successive Governments, including the incumbent government, have habitually rewarded the perpetrators of torture. For example, a police officer named Harun-or Rashid, currently working as a Deputy Commissioner of the Dhaka Metropolitan Police's Lalbagh Zone, in public, brutally tortured Mr. Zainal Abedin Farukh, a Member of Parliament and Chief Whip of the Opposition, on 6 July 2011. The torture caused serious injuries including head-injuries to the opposition parliamentarian. And what action did the government take? Instead of bringing the police officer to task, they promoted him to his current rank from the previous post of Additional Deputy Commissioner of police—this, after committing severe torture in public. More regrettably, in January 2013 the government awarded him the Present's Police Model (PPM) award. The minister for Home Affairs of Bangladesh, when asked about this, told the media that before giving the award to Harun, the government considered his record including the incident of torturing the opposition parliamentarian.

15. Bangladesh urgently requires the criminalisation of torture and 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 competent to deliver justice, independently, and rid it of the discrimination and corruption that plagues it at present.

16. Despite having been a long-standing member of the Human Rights Council (HRC), the nation has absolutely failed to comply with its international obligations. The Council needs strong, effective and prompt initiatives to bring changes in the human rights protection mechanisms in Bangladesh. The country can ill-afford to skip it.

17. Bangladesh has consistently failed to ensure the requisite cooperation with the HRC's Special Procedures to justify its membership in the Council. 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.

18. The ALRC notes that the Council has failed to discuss or take any credible action concerning the wide-ranging human rights violations taking place in Bangladesh. It appears there is a lack of interest and political will to address the situation, despite the severity and scale of the violations taking place. Government efforts to silence its critics domestically have no doubt contributed to this turn of events. Things will be accentuated if the Council's passivity is turned into complicity by continuation of such ongoing violations as systematic torture.

19. The Asian Legal Resource Centre therefore urges the Council to regard the issues of arbitrary deprivation of life, independence of the judiciary and impunity as matters for serious concern. As a matter of great urgency, the Government must stop torture and other gross violations of human rights. Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment and other independent experts particularly the

Special Rapporteurs on extra-judicial, summary or arbitrary executions and on independence of judges and lawyers should take this up as a priority in Bangladesh. In the upcoming Universal Periodic Review (UPR) Session in April 2013, the Council and the international community should hold Bangladesh accountable for its position on the protection of its citizens from torture and ill-treatment. Bangladesh should be urged to fulfil its obligation to the CAT by adopting the anti-torture Bill, pending before the parliament for four years.
