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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.

[29 August 2016]

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

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BANGLADESH: Enforced Disappearances should not be taken for granted

The Asian Legal Resource Centre (ALRC) brings the continuing enforced and involuntary disappearances in Bangladesh to the attention of the United Nations Human Rights Council, seeking active effort to facilitate redress to victims and to the families of the disappeared.

The ALRC is reiterating its grave concern for the reality of enforced disappearances in Bangladesh. The global human rights community is aware of the fact that enforced disappearance is a “crime against humanity” and thus, is not subject to a statute of limitations.¹ Sadly, there is hardly any visible initiative from the international community to address the situation of enforced disappearances.

The ALRC is not urging the Human Rights Council and international community to recommend the Government of Bangladesh “investigate, prosecute, and punish” the perpetrators of enforced disappearance. Such recommendations will be wastage of time and resources, as well as display ignorance about the ground realities.

According to documentation made by human rights defenders, 287 persons have been disappeared from January 2009 to July 2016. Apart from this confirmed figure, there could be more cases that have not been reported. Self-proclaimed members of the law enforcement agencies, in particular, the Rapid Action Battalion (RAB) and the Detective Branch (DB) of Bangladesh Police, allegedly picked up all these persons. Among them, 38 people’s bodies were found abandoned at different places; and 132 were later produced before the Courts or surfaced alive. Still, the whereabouts of 117 persons remains unknown.

The RAB alone picked up 130 people, out the 287 documented incidents of enforced disappearances. The DB Police have picked up 80 people. The regular police have taken away 18 people. In addition to that the RAB and DB Police have jointly picked up 10 people during this period. Men dressed in civilian clothing, claiming to be members of law-enforcement agencies, picked up 47 people. The Industrial Police picked up 1 person, while the *Ansar* (Village Defence Party) jointly with the Police, picked up 1 person. The victims include opposition politicians such as former Members of Parliament, city councilors, lawyers, students, labour leaders, businessmen, petty vendors, farmers, and teachers of different academic institutions.

In 2009, there were three people disappeared by the RAB. In 2013 it increased to 53 while in 2015, 65 people were disappeared. In 2016, from January to July, 52 people have been disappeared. It shows that the incidents of enforced disappearances are on the rise alarmingly. Consecutive increase of enforced disappearances for years involving the police and paramilitary agencies expose the level of impunity entrenched in the country. It also indicates the competence of the justice institutions in holding the law-enforcement agencies and the Executive branch of the State accountable.

These details indicate that several branches of the law-enforcement agencies have been disappearing citizens continually. The law-enforcement agencies have established a trend of disappearing people. Any sensible person may ask that why the victims do not approach the justice mechanisms for redress. Such persons need to know that access to the justice mechanism is denied at the very beginning in Bangladesh, when complaints come against the law-enforcement agencies.

The process of seeking justice is encountered with numerous hurdles. The police refuse to register complaints that accuse the personnel of the law-enforcement agencies and paramilitary forces. Lawyers, those who practice in the Magistrate’s Courts, do not want to risk their life by helping the families of the disappeared victims in filing complaints against the law-enforcement agencies. Instead, both the police and the lawyers suggest that if the complaints are re-written by removing the names of the law-enforcement agencies and replacing “disappearances” by “kidnapping”, then the complaints might be registered, provided that adequate bribes are paid to the police. Credible investigation of the

¹ Article 5 of the International Convention for the Protection of All Persons from Enforced Disappearance.

cases is impossible in the existing justice institutional system. And, thus, not a single case of disappearance has been investigated properly. Most victims are afraid to register complaints, as their families start facing constant surveillance, intimidations, and threats since their dear ones are disappeared by State agents. Apart from the intimidation, filling a case will open the window for the police and prosecutors to extort bribes that may make them bankrupt in the long run.

Several families, who were able to file Habeas Corpus writs in the High Court Division of the Supreme Court of Bangladesh, paying higher litigation costs for lawyers and bribes at every steps of the process, are now utterly frustrated. The writ petitioners have not received any effective remedy from the higher judiciary other than a Rule against the respondents to be responded to within four weeks. In all cases the respondents, who are governmental entities, have not bothered responding to the High Court's Rulings within the stipulated period. The Supreme Court, by its way of entertaining the Habeas Corpus writs, has shown that the Judiciary is least interested to hold the authorities accountable for enforced disappearances. And, the Office of the Attorney General always misleads the Courts in the cases of Habeas Corpus, by siding with the law-enforcement agencies that are accused of committing crimes of enforced disappearances. The Courts also entertain the wish of the Attorney General's Department, which has been politicized to such an extent that preventing the process of justice is the norm.

The justice institution has been contributing to make itself dysfunctional and incapable of upholding justice. In reality, the justice institution facilitates the process of creating authoritarian rulers in Bangladesh. The long-cherished practice of politicized recruitments, elevations, and promotions in the justice institutions, particularly the Judiciary as a whole, the Prosecution and State Attorney system, and law-enforcement agencies, in successive tenures, has brought the institutions to their worst state in the history of the country. Now, most of the Judges, State-Attorneys, Prosecutors, and Police officers are the direct beneficiaries of the incumbent authoritarian government. So, these beneficiaries want to maintain the status quo for their own individual interests, while very few of them, who believe in the principles of justice and are interested to uphold the norms, merely survive with high degree of demoralization, fearing the consequences that may go beyond their ability to manage in the given condition.

Unless the democratic freedoms are guaranteed, at least, by replacing the governmental setup, the institutional behavior is not going to improve in Bangladesh. Once such changes are brought there should be immediate and fundamental reforms in the justice institutions for enabling the people to get justice in future.

The ALRC urges the Human Rights Council and the larger global human rights community to break their silence about the entrenched problems that contribute to the unabated enforced disappearances and other gross violation of rights in Bangladesh. The Special Procedures, such as the Working Group on Enforced or Involuntary Disappearances, should be proactive in addressing the disappearances. It is important to realise that the victims have already lost trust in their domestic justice institutions in countries like Bangladesh. The prolonged silence and inaction from the international community may increase the people's distrust in global human rights mechanisms; their sincerity in addressing the problem will now come under question, more than ever.