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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.

[13 February 2017]

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

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Bangladesh: Torturous policing system marked by impunity and UNHRC membership cannot co-exist

The Asian Legal Resource Centre (ALRC) has shown and iterated over the years how torture is the norm in Bangladesh's law-enforcement system. The institutionalisation of torture has been entrenched to such an extent that Bangladesh's national psyche is incapable of imagining a law-enforcement system without torture. The police, and the paramilitary forces, are unable to work with any effectiveness or humanity when they use torture for extortion from the detainees and to satisfy political masters. Regrettably, investigation of crimes, and the efficiency that arrives with credible investigations is wholly missing from law-enforcement agencies. Therefore, the agencies are unable to make any contribution towards the upholding of justice.

The Bangladesh Police, paramilitary forces such as the Rapid Action Battalion (RAB) and the Border Guards-Bangladesh (BGB), as well as the intelligence agencies, such as the Directorate General of Forces Intelligence (DGFI) and the National Security Intelligence (NSI), use systemic torture in their respective custodies, camps, safe-houses, and secret detention centres across the country. All these agencies of the State maintain torturous practice to serve the political master of the day, silencing opposition and critics of the government, and extorting the poor and powerless.

The ruling elites and their allies understand that torture helps the government gain multiple benefits. By using torture, and other coercive methods, the law enforcement and intelligence agencies create extreme fear in society. The condition, in one hand, compels the ordinary people to surrender the lion's share of hard-earned income to the law-enforcement personnel and to professionals involved with the activities of "justice" institutions. While high profile ruling party leaders and the heads of government can concentrate more on indulging in corruption, torture is systematically used to prevent the people from criticising incumbent governments. The ruling parties prioritise torture, using it against political opposition of the day. In order to ensure the use of torture against the opposition and critics, the incumbent governments recruit those who are ready to unleash the desired actions.

Apart from the conventional methods of torture – such as the beating on the joints of limbs, giving electric-shocks, water-boarding, and keeping detainees naked in dark and extremely cold rooms, or switching on high-voltage lights over the head in isolated torture-cells, the police have re-established an old colonial pattern of kneecapping.

The practice of shooting at limbs is increasing alarmingly across the country. The police arrest civilians, including opposition activists and ordinary persons, fasten their hands and legs with handcuffs and ropes, and then proceed to shoot at their limbs, all in custody. The wounded victims are abandoned on the floor of the police station for hours to bleed from their injuries. The police only send the victims to hospital after massive loss of blood.

Due to delay in hospitalisation, in many cases, physicians decide to amputate the limbs. In case the victims survive, they are rendered permanently disabled. The number of such disabled persons is increasing week after week. Subsequently, the police fabricate criminal cases against the victims, to prevent them from sharing their stories to the media and human rights organisations. Additionally, their families are forced to pay bribes amidst constant intimidation and threats. None of the victims are allowed to register a complaint against the perpetrators, who are members of law enforcement agencies.

Bangladesh's National Parliament passed the "*Torture and Custodial Death (Prohibition) Act-2013*¹" on 25 October 2013. Since the enactment, the incumbent government has not used the law. Only two cases of torture have been

¹ Bangladesh's *Torture and Custodial Death (Prohibition) Act-2013*; an unofficial English translation can be accessed from the website of Asian Human Rights Commission:
<http://www.humanrights.asia/countries/bangladesh/countries/bangladesh/laws/legislation/Torture-CustodialDeath-ActNo50of2013-English.pdf/>

registered with the Magistrate's Courts under this law since the law was enacted. In contrast, numerous incidents of torture routinely occur throughout the country. The question of prosecution does not ever arise, as investigations regarding the complaints of torture are not conducted.

Bangladesh's justice institutions habitually contribute to the process of nourishing the torturous and coercive law-enforcement system. The country's Judiciary – from the Magistracy to the Supreme Court – deny remedies to victims of torture and kneecapping, along with the victims of other gross abuses of human rights. Instead, the subordinate Judiciary orders that the detainees be sent to “police remand” for further “interrogation” responding to the wish of the police, even though it is nationally known that “remand” is synonymous with “torture” in police custody.

The High Court Division and Appellate Division of the Supreme Court of Bangladesh provide very limited amount of judicial remedies, subject to the identities of the petitioners and their legal representatives before the Courts. The torture victims, having association with opposition parties and not being represented by the pro-government high-profile lawyers, face lesser chance of getting remedies than others who can afford it. Often, the Courts impose harsher conditions to pro-opposition defendants, even if any remedy is provided to them.

As a result of these consistent practices well beyond the pale of juridical norms, the Judiciary of Bangladesh has earned the reputation of being the extended hand of the incumbent government. The Judiciary has continuously abdicated its own power in granting legal remedies to the litigants, contradicting the principles of fair trial. As a result, the Judiciary possesses an impaired capacity to guarantee remedies and protection to victims of human rights abuse.

The Judiciary is well aware that the police do not register complaints that allege torture, extrajudicial executions, or enforced disappearance, as the allegations are against their colleagues. If any complaint is registered with the Magistrate's Court, the police – who are the statutory investigators of criminal cases – protect their colleagues in exchange of bribes. Regrettably, the Judiciary keeps its eyes shut as if nothing has happened.

The ALRC has consistently informed independent experts of the UN and the international community about the realities of Bangladesh. Despite the non-cooperation with major Special Procedures Mandates of the UN Human Rights Mechanisms, Bangladesh has remained a Member of the Council for more than seven years in the last decade. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has never been invited to visit the country. This indicates Bangladesh's level of non-cooperation, despite it being a party to the Convention Against Torture (CAT).

The UN Human Rights Council needs to see Bangladesh's realities in the mirror of international human rights norms and universal standards developed over several decades. The Council should ask itself why it should accommodate such a State as Member of the Council when the State flagrantly refuses to uphold norms of universal human rights. An re-orientation is overdue about the Council's own image as the world's highest body mandated to look after the human rights of the people; its accommodation of a State like Bangladesh that has deliberately committed crimes of torture and kneecapping for years, is a self-reflection the Council needs to confront.

The Council requires a paradigm shift towards the protection of people, immediately, if it is sincere about protecting people from gross abuses of human rights.

Effective initiatives for rebuilding justice institutions in countries like Bangladesh are the call of the time. Rebuilding does not mean constructing new court buildings, but rebuilding institutions and their conceptual foundations, to the extent that equality before the law and right to fair trial can be guaranteed. These institutions must never entertain impunity, which has no place in any genuine rule of law jurisdiction.