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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 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.

[03 June 2019]

* Issued as received, in the language(s) of submission only.



Bangladesh: judiciary abdicates independence

The Asian Legal Resource Centre (ALRC) has been consistently expressing its serious concerns over the dysfunctional justice institutions of Bangladesh – an incumbent Member of the United Nations Human Rights Council. The victims' right to fair and speedy trial and the lawyers scope of contributing to the process of justice ceases to exist in the country under an illegitimate authoritarian government.

Bangladesh's judiciary has set its domestic standards of providing remedies subjectively. The universally accepted Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power¹ have no place in deciding the cases as far as Bangladesh's judiciary is concerned. The judiciary, in general, functions for the following purposes:

A. Curtailing the right to personal liberty and the right to fair and speedy trial of those who are the critics of the incumbent government and the leaders and supporters of the opposition political parties. As a result, the 68 prisons of Bangladesh are overcrowded with 88,371 inmates of whom 80 per cent are pre-trial detainees² while the actual capacity of these prisons is to host 40,664 inmates as of April 30, 2019. The judiciary complies with the suggestions of the police, who arbitrarily detain citizens often without any reasonable ground and subsequently fabricate criminal cases against the detainees.

B. Convicting the opposition leaders, activists, critics of the incumbent government, and dissenting voices in trumped-up charges. The executive authorities target their political opponents and critics whom the police arbitrarily detain, fabricate criminal cases against them, and produce before the courts. The judges accomplish the rest of the jobs complying with the police and the executive authorities who control the recruitment, posting, and promotion of the judges and the entire human resource of the judiciary.

C. Setting the perpetrators, affiliated to the ruling party and the law-enforcement agencies, free for most of the criminal offences and gross human rights violations being committed in the country. Bangladesh's judiciary by such systemic practice actively contributes to the process of enhancing the culture of impunity.

The judiciary enjoys harmonious supports from the police, the prosecutors, medical professionals, lawyers, and pro-government brokers and justice-traders in imposing the ongoing catastrophic judicial abuse of power against the litigants. Today, it is a common knowledge about Bangladesh that getting jobs in the police, judiciary, prosecution, and bureaucracy is hardly possible without an aspirant's affiliation to the incumbent ruling party. Those who were recruited to the police and bureaucracy under the previous governments are mostly made 'Officer on Special Duty (OSD)' – who literally does not have any portfolio in their respective departments other than just keeping the job. Often the government removes the officials taking the legal advantage of giving 'forced retirements' from their service regardless of the specialization of one's profession or the department.

The judges face consequences, if anyone, by chance, passes an order or judgment on merit, defying the prescribed remit of the incumbent government. For example: at least, three judges including the former Chief Justice of Bangladesh have been in exile for not complying with the instructions of the Sheikh Hasina led government.

The Special Procedures of the Human Rights Council needs to study the behavioural pattern of Bangladesh's judiciary, which abdicates its independence and sacrifices its institutional integrity everyday to meet the requirements of the incumbent government. The given condition offers: i) denial of justice, as numerous victims of torture, extrajudicial killings, and enforced disappearances have been experiencing in Bangladesh; and, ii) travesty of justice, being faced by the opposition political leaders and dissidents.

¹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/VictimsOfCrimeAndAbuseOfPower.aspx>.

² World Prison Brief, <http://prisonstudies.org/country/bangladesh>.

The Human Rights Council and the international community need to stop praising Bangladesh government for housing the Rohingya refugees, behind which the catastrophic human rights situation is being hidden. It is already too late to concentrate to Bangladesh's democratization, transformation of the justice institutions, and restoration of the rule of law for the objective of protecting the people from heinous crimes and terrorism of the State.
