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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.

[20 February 2008]

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

INDIA: Starvation deaths ongoing due to administrative neglect

1. 45-year-old Mr. Teras Ram died from acute starvation on December 24, 2007. Ram is from the Chamar community in Baisa village, Jaunpur district, Uttar Pradesh State. The Chamar are a lower caste community considered to be untouchable by the caste Hindus. While India is rich in food supplies and self-sufficient in its food requirements¹, acute starvation and malnourishment remain ongoing concerns. In the past 12 months the ALRC has documented at least 29 cases of starvation deaths from India.²

2. The cases documented by the ALRC shows a consistent and widespread pattern of administrative neglect that results in acute starvation, death from malnutrition and malnutrition induced diseases in India. Each case documented by the ALRC was immediately brought to the attention of the Government of India and the respective State/Provincial government. In each case, the response by the government was absolute denial. In spite of specific calls for administrative actions to address the issue of starvation and malnutrition, the Government of India has done nothing credible thus far to address the situation.

3. As in the case of Ram, most deaths from starvation are reported from the lower caste (Dalit) communities in the country. Discrimination within society owing to caste-based prejudices and poverty, means that the benefits of government welfare programmes does not reach this community. In order to guarantee food security, which is a fundamental right in India,³ the government has constituted a public distribution network under the Ministry of Food and Public Distribution. However, this public distribution system (PDS), is plagued by rampant corruption, causing it to malfunction.⁴ The ALRC has in the past has submitted reports to the UN expressing concern over this issue.⁵

4. Corruption in the PDS system promotes starvation. Coupled with the discriminatory practices in the government health service sector, the poor often die from malnutrition and malnutrition-induced sicknesses. 18-month-old Alina Shahin, a resident of Lohta Panchayath, Kashi Vidhya Peed Block in Varanasi District, Uttar Pradesh State, died on September 13, 2007. Prior to her death, Alina was taken to the government public health facility in Lohta. The staff at the facility not only refused treatment but assaulted Alina's elder sister, Khusnuma, who accompanied Alina to the facility.

5. Alina was suffering from Grade IV malnutrition. The ALRC was alerted to Alina's situation prior to her death through its local partner, the People's Vigilance Committee on Human Rights (PVCHR). The ALRC on September 3, 2007, contacted the district administration through its sister-organisation, the Asian Human Rights Commission

¹ The High Level Committee constituted by the Ministry of Food and Public Distribution in India in its reports claims that the country is self-sufficient in food grain production and that the country could even face a severe drought season without engendering a shortage of food for the needy.

² Given the geographical expanse of the country, its population and the similarity in administrative failures in Provinces and States, the number of persons who face food shortage in India is expected to be very high.

³ While the Indian Constitution does not explicitly mention the right to food as a fundamental right, it is implicitly enshrined in Article 21 of the Constitution under the fundamental right to life. The Supreme Court of India has also reiterated that Article 21 of the Indian Constitution guarantees the right to food.

⁴ Report of the Special Rapporteur on the Right to Food E/CN.4/2006/44/Add.2, dated 20 March 2006.

⁵ INDIA: Widespread corruption in the Public Food Distribution System causing starvation deaths: ALRC (A/HRC/5/NGO/6)

(AHRC). The AHRC urged the head of the district administration, the District Magistrate (DM), Ms. Veena Kumari, to ensure that Alina receive immediate medical attention. The DM refused to take action and through a press release denied the case.

6. In the statement, the DM accused the PVCHR and other local NGOs of shaming the country by reporting cases of starvation. As the result of a lack of State-intervention, Alina died 10 days later. The DM refuted the cause of death. In most cases of starvation deaths, the Government of India has refused to accept that deaths were due to starvation. This case is, however, not a unique experience witnessed by the ALRC.⁶

7. The ALRC has observed that whenever a case of starvation is reported, the Indian authorities try to silence the local organisation that reported the case. The condemnable practice of the Indian authorities is to threaten and intimidate the local organisation. Registering false cases against the organisation or the persons involved with such an organisation is a common practice.⁷

8. The continuation of feudal practices in India is one more reason for starvation and food insecurity in India. The landlords, often from the upper caste, force members of the lower caste to work for them. Bonded labour is a common practice in the country.⁸ Most States in India are yet to legislate and implement land reforms laws. Left with no cultivable land or work, the villagers are often forced to work for the local landlords for practically nothing. The wages are often provided in the form of a daily meal. Entire families are forced to work in conditions equivalent to slavery.⁹

9. The correlation between bonded labour, the absence of land reform policies and starvation is proven by the simple fact that in States where land reforms have been implemented, cases of starvation and malnutrition are far less frequently reported.¹⁰ In the past three years, not a single case of starvation deaths has been reported from the State of Kerala.¹¹ The nation-wide implementation of land reforms is yet to materialise owing to strong political opposition. Many legislators in India are feudal lords.¹²

10. Even the Indian judiciary has tried and failed to address the issue of food security. The Supreme Court of India, through a series of interim orders, has tried to address this issue.

⁶ “Speaking of local officials, the Special Rapporteur found a tendency to deny that any starvation deaths occurred, with reported deaths generally blamed on unrelated diseases such as measles.” Report of the UN Special Rapporteur on the Right to Food, E/CN.4/2006/44/Add.2, dated 20 March 2006, p.13, paragraph 32

⁷ India: Threats against Dr. Lenin Raghuvanshi and members of the Peoples Vigilance Committee on Human Rights (PVCHR): Frontline <<http://www.frontlinedefenders.org/node/1307>>

⁸ ‘Bonded labour still exists in many states’ April 22, 2007 – Mr. P. Chidambaram, Finance Minister – Government of India, The Hindu April 22, 2007 <<http://www.hindu.com/2007/04/23/stories/2007042304190500.htm>>

⁹ Government of India: Ministry of Labour & Employment, Annual Report 2006-2007; The practice of bonded labour is prohibited under Article 23 of the Indian Constitution and also by specific enactment ~ The Bonded Labour System (Abolition) Act, 1976.

¹⁰ Organising for the Socio Economic Security for India: Sukti Das Gupta, ILO Geneva, October 2002.

¹¹ The State of Kerala implemented the Kerala Land Reforms Act in 1963, bringing a statutory limit to land holding.

¹² For example, of the 543 legislators in the lower house of the Indian Parliament (Lok Sabha), 120 are from the States of Uttar Pradesh and Bihar. Yet, these are the two States in India that record the lowest per capita income. The State is home to many senior politicians in India, yet it is one of the most backward States in terms of productivity and agricultural income.

The court, finding that the Government is clueless and non-responsive regarding the issue, mandated its own Commissioners to investigate and report to the court on the situation of starvation and malnutrition. The Commissioners appointed by the court were also tasked with receiving and investigating complaints of starvation, malnutrition and corruption in the PDS system. Even after six years of this exercise, the situation of food security in India has not improved.

11. The Government of India has also tried several indirect means to ensure a day's meal for the poor. Schemes like the National Rural Employment Guarantee Act, 2005 (NREGA), the midday meal scheme and the Targeted Public Food Distribution System are examples. It is true that the NREGA has generated rural employment. However, the payment for the employment failed to reach the poor, due to corruption. Those who challenged the system either lost their lives, or, as reported from States like Chhattisgarh, were accused of being Naxalites.¹³

12. The corrupt caucus between the law enforcement agencies, landlords and their mafia, the local politicians and an inept, negligent and corrupt administrative set-up, together smother food security in India.¹⁴ India's accession to the International Covenant on Economic, Social and Cultural Rights took place on July 10, 1979. Most of the rights enshrined in the Covenant have been included in domestic law in India. Like the right to food, many of these rights are justiciable, yet people starve to death in India. The failure of the Government of India to protect, promote and fulfil this fundamental human right is a blight on India's human rights record.

13. India is one of the world's fastest developing economies and has a reasonably functioning justice system. India's courts have made commendable contributions to the development of domestic and international human rights jurisprudence. Indians have attained and continue to occupy enviable positions in international organisations, including the UN. India has offered assistance and developmental aid to other developing nations. Yet, an estimated 60% of Indians in the country face malnutrition or even starvation.

14. Against this backdrop, the ALRC is not urging the Human Rights Council to make any specific recommendations to the Government of India based on this written submission. The Government of India is aware of what is to be done to address the situation of food security in the country.

15. The purpose of this written statement is to bring to the attention of the international community the predicament of a large section of India's populace, which the Government of India has thus far ignored and covered up cases related to violations of their rights. The UN Human Rights Council making a recommendation to the Government of India will not bring 18-month-old Alina back to life.

¹³ Dr. Binayek Sen, a medical doctor and human rights activist from the State was vocal against the corrupt practices of the State administration. Even the Supreme Court of India has denied bail to Dr. Sen, in spite of the absence of any evidence linking Dr. Sen with Naxalites in the State. World renowned personalities like Prof. Noam Chomsky have written to the Government of India seeking Dr. Sen's release, which the government refused.

¹⁴ Enforcing Right to Food in India - Bottlenecks in Delivering in the Expected Outcome: George Cheriyan, United Nations University ~ World Institute for Development Economics Research, November 2006

16. The ALRC expects the **Government of India, which is a member of the Human Rights Council, to respect its obligation to protect, promote and fulfil the fundamental right to food** of its citizens.

About the ALRC: The Asian Legal Resource Centre is an independent regional non-governmental organisation holding general consultative status with the Economic and Social Council of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at the local and national levels throughout Asia.

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