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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.

[22 August 2021]

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



Sri Lanka: UN Human Rights Mechanisms Ought to Explore New Approaches to Protect Rights

For several decades now, the widespread practice of enforced disappearances has been experienced in several countries in Asia and elsewhere.

Despite many attempts by the UN human rights agencies including the Working Group on Enforced or Involuntary Disappearances, there are hardly any cases where credible investigations or prosecutions have taken place concerning the cases which sometimes go into thousands which are being reported.

The Asian Legal Resources Centre (ALRC) urges the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on Enforced Disappearances to take steps to gain an understanding of this horrible practice. The approach to understand this widespread practice, the ALRC suggests, should go beyond the legalistic approach of demanding investigations and prosecutions. One of the reasons for that approach is that the practice has shown that this approach has not produced notable success.

If this extremely brutal form of punishment is to be brought under the scrutiny of the UN human rights mechanisms, it is necessary to understand the complex factors that have led to the adoption of this mode of punishment in the relevant countries.

It will be surprising to find that in several of these countries, the death sentence on convicted criminals is usually not put into actual practice. This is quite a positive aspect.

However, the same countries have no hesitation to cause enforced disappearances through its security agencies such as the Police, the military or paramilitary agencies. In most such cases, enforced disappearances mean abduction in place of arrest, torture and the extraction of information, the killing of persons in detention and also the disposal of bodies in secret. All these activities are carried out with direct or indirect approvals granted or the use of this form of punishment on some categories of persons.

In ALRC studies, in most cases, these persons who are thus subjected to enforced disappearances are persons who for one reason or the other have come into conflict with the political establishment of these countries. Sometimes, they are called terrorists. However, in enforced disappearances, the accuser, the investigator, the judge and the executioner are more or less the same persons. As the act of enforced disappearance is denied, there is no way to officially find out the reasons for these acts.

The ALRC also observes that in several countries, the actual persons who become the targets of such enforced disappearances are themselves not the real targets that are being pursued. The real target is the society in general. The need to create an ethos and an environment of fear in order to prevent any form of legitimate peaceful resistance against violations of rights and injustices is, the ALRC observes, the ultimate aim of these actions. Thus, the ultimate aims are of a political nature.

Before any real achievements could be made in order to stop these practices from the point of view of legal actions, it is much more important to gain insight into what has happened through studies into the political, social, psychological and other aspects that have provided the justification for such actions to be made possible. It requires much change in the political and moral ethos of a country before some officers working for the State could be motivated to undertake actions such as causing enforced disappearances.

If a serious attempt is made in corroboration with the experts in the fields of political science, sociology, psychology and other related branches of knowledge for in depth studies into these events, it would probably generate much more insight into these actions. Besides, it will also lead to the possibility of creating much more enlightened discussions and debates both in the relevant societies and also in the international arena. Such studies into these factors are very much missing.

Living at a time of great communication change as that is taking place at the present time, gaining greater knowledge about an issue could lead to the taking of many forms of action for the eradication of such an evil than merely relying on the legal mechanisms only.

Much more creative and innovative approaches are needed if the world is to gain a greater knowledge about what has made such large scale disappearances quite a part of the political tools of suppression in several of the countries in Asia as well as elsewhere.

Many decades of the attempts to deal with such problems only by political means have as acknowledged, failed. It is necessary not to rely on the same means that have produced such negative results. By greater collaboration, the various branches of research may be able to create a discourse which could lead to positive steps being taken for the greater involvement of many stakeholders to resolve this terrible practice.
