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Written statement* submitted by the Asian Legal Resource Centre (ALRC), 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 2010]

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

Bangladesh: Increasing incidence of enforced disappearances being committed with impunity must be halted

1. The Asian Legal Resource Centre (ALRC) has previously made numerous submissions to the Human Rights Council (HRC) concerning a range of human rights issues in Bangladesh, including mass arbitrary arrests, endemic torture and widespread extra-judicial killings. The ALRC has noted in the last year a new trend that is of serious concern: an increase in the number of forced disappearances being reported in the country. It is understood that due to increased local outcry and international attention being given to the hundreds of extra-judicial killings that have been committed by Bangladesh's law-enforcement agencies, these are now increasingly resorting instead to forced disappearances, as this practice makes it harder to find those killed, identify the methods used to kill them or those responsible. In a justice system already crippled by impunity, the practice of forced disappearance makes it even harder for justice to be served.

2. The ALRC recalls that Bangladesh is a long-standing member of the Human Rights Council and despite it pledges to the international community given as part of its election to the body and the requirement for the HRC's members to uphold human rights to the highest standards, Bangladesh has allowed widespread and grave human rights to be committed by state agents with total impunity. It is feared that the recorded increase in forced disappearances now marks a new phase in this regrettable record of abuse of rights that are enshrined in the country's constitution as well as its international legal obligations, and of non-cooperation with the Human Rights Council.

3. Bangladesh acceded to the International Covenant on Civil and Political Rights (ICCPR) on September 6, 2000, that prohibits the grave violations of rights highlighted above. According to Article 6 and 2 of the ICCPR, Bangladesh respectively has the obligations to ensure the right to life of its people and to ensure prompt and effective reparation where violations occur. It is also obliged to bring legislation into conformity with the ICCPR. Article 32 of the Constitution of Bangladesh protects the fundamental right to life and liberty, stating that: "No person shall be deprived of life or personal liberty, save in accordance with law." In reality, this has not been implemented and this most fundamental right is being repeatedly violated with complete impunity.

4. The Asian Human Rights Commission (AHRC), the ALRC's sister organisation, has documented several recent cases of disappearances that speak to the increase in this practice. These examples should serve as an early warning concerning a problem that, if unchecked, will likely flourish, taking on the dimensions of other related grave abuses such as extra-judicial killings, in the country. The Human Rights Council is there urged to take appropriate action to ensure that Bangladesh puts a halt to this practice and ensures that the whereabouts of the disappeared are located, accompanied by adequate punishment to the perpetrators and redress for the victims and their families.

5. Case-1:

Mr. Mohammad Salim Mian, a fruit-trading businessman, was picked up by the members of the Rapid Action Battalion (RAB) from Salim's relative's house at Pirojpur village under the jurisdiction of the Kapasia police of the Gazipur district early in the morning of February 19, 2010 along with two other persons. The members of the paramilitary RAB force handcuffed and blindfolded the three persons and took them away in vehicles. The three persons were detained in unidentified places for several days without any publicly available official record of their arrest. Later, the other two co-detainees, Mr. Mainul and Mr. Mohammad Ali Hossain, stated that Salim had been held in the custody of the 4th Battalion of the

Rapid Action Battalion (RAB-4) at Paikpara, in the Dhaka Metropolitan city jurisdiction.

On February 28, the RAB-4 officials handed over Hossain to the Kafrul police, who fabricated a case against Hossain before producing him before the Chief Metropolitan Judicial Magistrate Court of Dhaka, which released him on payment of a monetary penalty. Mr. Mainul was handed over to the Cantonment police, who charged Mainul in murder and illegal arms possession cases and detained him in prison.

Salim's whereabouts remain unknown. Upon repeated refusal by the local police to record a formal complaint regarding the incident, a Habeas Corpus writ case (Petition No. 2851 of 2010) was registered with the High Court Division Bench of the Supreme Court of Bangladesh. The Court heard the case once on 15 April. The country's Attorney General's office claimed before the Court that according to the official records of the RAB-4, Mr. Salim was not arrested or detained by them. After hearing both parties the Court issued a rule¹ against the government and ordered seven respondents to explain the matter before the court within three weeks. However, the case has not been heard again and Mr. Salim remains disappeared to date.

6. **Case-2:**

Mr. Sujon, a businessman and political activist, was allegedly kidnapped by the members of the RAB-2 from a Dhaka city street on March 24, 2010 and remains disappeared to date. When the family attempted to register a case after learning of his abduction, the police refused to record the complaint as the allegations were against the members of the RAB-2, which enjoys impunity by default in the country. Later, following changes to the complaint, in which the RAB was no longer mentioned, a complaint was registered against unidentified persons.

According to the police investigation, three officers of the RAB-2 including Lieutenant Farhad, who was deputed to the RAB-2 from the Bangladesh Navy, and two Deputy Assistant Director (DAD) Rafique and Samsu used a prostitute to lure Sujon to a restaurant in the Farmgate area of Dhaka Metropolitan City, where they arrested, leading to his disappearance.

The police investigation found that from March 19 to 25 the prostitute had 25 conversations with Lieutenant Farhad, 17 conversations with DAD Masud and 3 calls to DAD Samsu's official cell phone numbers. After the allegation Lt. Farhad was sent back to the Bangladesh Navy, however, the issue has not proceeded any further. The police were allegedly forced to stop their investigation regarding this matter, according to anonymous sources within the police. The family of the disappeared person has not yet received any information regarding the whereabouts of Sujon.

7. **Case-3:**

Two brothers, Mr. Jalal Uddin and Mr. Lal Babu, were arrested by heavily armed the members of the RAB-4 at around 2 am on March 18, 2010, from an area known as Bihari Camp, where so-called "Stranded Pakistani" families are housed in the Dhaka Metropolitan City. The RAB-4 members cordoned the whole neighbourhood, according to the eye-witnesses of the scene of arresting Jalal Uddin and Lal Babu.

¹ Please see details here: <http://www.urgentappeals.net/pdf/AHRC-UAU-020-2010-01.pdf> and <http://www.ahrchk.net/ua/mainfile.php/2010/3422/>

The arrests were made without any explanation or the production of any arrest warrants. The local police refused to record a formal complaint by the victims' family members regarding the arrest and disappearance of the two brothers, stating that they "had nothing to do with the complaints against the RAB."

8. **Case-4:**

On March 19, 2010, at around 4:30 pm, timber-trader Mr. Akbor Ali Sharder was arrested along with one of his business partners, Mr. Bipin Chandra Sarker, from a sawmill in Thakurgaon district town by plain-clothed persons who identified themselves as being members of the RAB-5. When Akbor's wife, Ms. Parvin, went to the Thakurgaon police station to file a complaint the police detained her and blamed Akbor's business partner Bipin for kidnapping Akbor. Later, the police forced Bipin's younger brother, Mr. Robin Chandra Sarker, to file an abduction case against Akbor and claimed that they had detained Parvin as the spouse of a suspected criminal.

The following morning Bipin returned home and described that 13 plain-clothed persons arrested him and Akbor. The abductors blindfolded them and tied their hands behind their backs and transported them away in a microbus. The conversations among the plain-clothed persons reportedly identified them as being members of the RAB-5. The abductors demanded 3 million BDT (around 43,000 US\$) from Akbor and Bipin.

Akbor remains disappeared to date. Akbor's elder brother, Mr. Ayub Ali Sarder, has told the AHRC that he has lodged a petition case with the Chief Judicial Magistrate's Court of Thakurgaon district and has addressed special complaint letters to high-ranking officials of the government, including the Ministry of Home Affairs and the Inspector General of Police. However, the authorities have not taken any visible actions regarding the disappearance of Akbor.

Ayub Ali reportedly held press conferences on two occasions accusing the RAB of having abducted his brother. According to eyewitnesses, Ayub Ali and a business partner, Mr. Abdur Rahman, were arrested on May 19, 2010, from Banosree area by a group of persons wearing black uniforms that resemble the uniform of the RAB, and also remain missing to date.

9. **Case-5:**

Mr. Chowdhury Alam, a counsellor of the Dhaka City Corporation, was stopped by a group of plain clothed persons at around 8:30pm on June 25, 2010. The plain clothed persons introduced themselves as members of the RAB. Alam was dragged out from his car and taken away in a microbus.

When Alam's son went to the local police to register a case regarding the abduction by the members of the RAB, the police recorded the compliant without including the name of the RAB. As Alam has remained disappeared, a Habeas Corpus writ petition was filed by Alam's son; however, as there was no official record found in favour of the incident of arrest by any of the law-enforcement agencies of the country, the Habeas Corpus was not accepted in the High Court Division of the Supreme Court of Bangladesh.

10. None of the above-mentioned cases have been credibly investigated by the authorities. The law-enforcement agencies, particularly the Rapid Action Battalion that is thought to be responsible for many of the abductions, continue to enjoy impunity. There has been no official record made publicly available regarding the arrests and detention of victims; all the allegations of abduction or arrest have been denied by the RAB; the police have refused to register formal complaints against the RAB regarding the disappearances

and have further harassed the complainants and recorded erroneous information regarding the incidents. This obstructs attempts by relatives to locate their loved ones and seek justice concerning these abuses. Habeas Corpus applications cannot be registered, as the law-enforcement agencies do not maintain or provide any official records regarding the abduction or arrests, detention and whereabouts of the persons.

11. As there is no information or evidence regarding the victims' deaths, including dead bodies, the relatives cannot file murder charges against the perpetrators. If petition cases are registered with Magistrate's courts, they are investigated by police officers who only cover up crimes by their colleagues. Given Bangladesh's seriously flawed criminal justice system, there is little hope of achieving justice concerning abuse perpetrated by state-actors for victims or their relatives.

12. Moreover, when the media and human rights defenders have attempted to document cases of enforced disappearances they have been seriously intimidated, obstructed and harassed by law-enforcement agencies and top officials of the government, including the office of Prime Minister, the Ministry of Home Affairs and the Ministry of Information, showing top-level complicity in the growing problem of forced disappearances.

13. Bangladesh has failed to show adequate cooperation with the HRC's Special Procedures, including by failing to grant requests for country visits, inter alia, by the mandates on the independence of judges and lawyers, on extra-judicial killings or on the freedom of expression, all of which have had requests pending for several years. The Human Rights Council is urged to take all necessary steps to ensure that its membership improve their cooperation with its mechanisms. Bangladesh must be urged to halt the growing phenomenon of enforced disappearances and show its commitment to do so by ratifying the International Convention for the Protection of All Persons from Enforced Disappearance without delay and producing and implementing in full domestic legislation in line with the provisions of this instrument.
