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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:
TORTURE AND DETENTION**

**Written statement* submitted by the Asian Legal Resource Center (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.

[13 February 2006]

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

TORTURE IN BANGLADESH

1. Torture is institutionalized in Bangladesh. Although Bangladesh ratified the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment in 1998, it has not yet enacted legislation making torture a criminal offence. The lack of a domestic law is an obstacle to developing local jurisprudence to eliminate torture and into which international jurisprudence can be assimilated. However, there is also no immediate plan to introduce such a law in Bangladesh.

2. The criminal justice system of Bangladesh has hardly changed since the British colonial times. Many laws go back over 100 years. At no stage has there been a serious attempt to modernize the criminal justice system and to take advantage of significant benefits elsewhere. The Asian Legal Resource Centre has in a separate statement to the Commission outlined in detail its concerns about the collapsed institutions for policing and justice in Bangladesh and the implications of these for human rights there.

3. Although Bangladesh has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) or Punishment and the International Covenant on Civil and Political Rights (ICCPR) and thereby obtained some international respectability, the State has done nothing to bring about local legislation in terms of their international obligations to eliminate torture. In other words, torture has not been made a crime in Bangladesh. In neighbouring Sri Lanka ratification of the CAT was followed by local legislation, which imposed a seven-year mandatory sentence on anyone found guilty of the offense of torture. In Hong Kong torture carries the punishment of life imprisonment. In Bangladesh, however, torture is treated only as physical assault. Furthermore, while police in Bangladesh are under obligation to investigate cases of torture in the country, there is no procedure to do so when the perpetrator is a police officer. Because of this, and due to the general situation of policing in the country, people are too afraid of the repercussions in pursuing a complaint of torture, particularly when complaints are lodged against the police.

4. In ratifying the CAT the Government of Bangladesh reserved article 14, which stipulates "that the State party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including means of full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture his dependents shall be entitled to compensation." This means that the Government of Bangladesh does not accept its legal responsibility to provide compensation to a torture victim or their family, or to provide rehabilitation for torture victims. In failing to accept this responsibility, which is one of the most basic components of the CAT as well as all legal doctrines associated with the elimination of torture, the government has virtually made article 13(5) of the Constitution of Bangladesh, which forbids torture, meaningless. It has also strongly endorsed the enjoyment of impunity by the security forces of Bangladesh for acts of torture and related gross abuses of human rights.

5. So it is that the investigative institutions of Bangladesh are also in no way capable of addressing torture, let alone other gross abuses of human rights. No specialized police officers exist for criminal investigations. For every 13,000 citizens there is one badly paid and poorly officer. No independent branch exists to investigate police officers concerning gross violations of human rights. Cases can only be filed with the consent of the accused policeman's superior officer.

6. No human rights institution exists to monitor law enforcement agencies. Despite years of discussion and drafting of legislation towards establishing a national human rights commission, no practical steps have been taken to this end. No reason has been given for the delay and no timetable has been set for its establishment. The government has not even committed itself to establishing such an institution. This is a matter of shame not only for the Government of Bangladesh but also for the international community, which has assisted in making preparations. Evidently, despite the almost unanimous public opinion about the need for such an institution, powerful figures in Bangladesh have been unimpressed about the need for change.

7. Public prosecutors are politically controlled. They are changed every time a new government comes to power. As a result they do not accumulate experience or build an institutional legacy to pass from generation to generation. The appointments of public prosecutors are in particular made as favours to the ruling political party leaders. There are no links between the prosecution and investigating branches. If the police do not investigate a crime, the prosecutor has no responsibility. Most of the time public prosecutors, who are not legal experts in many places in the country, accept the charge sheets prepared by police officers solely as a result of bribes taken from different parties regarding the respective cases.

8. There are no effective avenues for complaints and through which to obtain protection from alleged perpetrators of human rights abuses in Bangladesh. A system of disciplinary inquiries barely exists. Under public pressure sometimes an errant officer, particularly of lower rank, may be transferred to another area. That is more or less where the disciplinary process ends. There is also the public view that when there are complaints regarding junior officers, some senior officers use the occasion to obtain money from the juniors. If people complain to senior police then a matter is not usually investigated unless accompanied by concerted public pressure. No witness protection programme exists in Bangladesh. People do not want to complain or give evidence, particularly in allegations against law enforcement officers, of protection from the perpetrators.

9. The Asian Legal Resource Centre (ALRC) urges the Commission to call on the Government of Bangladesh to make torture a serious crime in line with the Convention against Torture, to which it has already subscribed. It must also remove its reservation to article 14 of the CAT and put in place measures for adequate compensation and rehabilitation of torture victims and their families. The ALRC also advocates for the establishment of a national human rights institution in Bangladesh, which could also provide for complaint-making, investigations and redress for torture victims. The Commission, the Committee against Torture and Special Rapporteur on the question of torture must together also call upon the expertise of local organisations in order to intervene effectively and eliminate torture from Bangladesh. An increase in international awareness would also serve to assist in the building of practical measures for redress.
