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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:  
INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE,  
IMPUNITY**

**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]

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

## **ARBITRARY KILLINGS AND ARRESTS, CORRUPTION AND FEAR IN BANGLADESH**

1. Violence, corruption and fear have exposed Bangladesh's flawed social and legal framework. The State is not capable of fulfilling even the most basic obligations to its citizens. The increase in conflict and violence has further undermined the State. The rule of law, democracy and human rights are all in critical condition, and the country is in almost all respects unable to meet its most basic treaty obligations.

2. The policing system in Bangladesh is extremely corrupt. Police officers are in all respects are incapable of performing the usual functions of a police service. The prosecution is replaced every time a new political regime comes into power. Independence of the judiciary is not possible, as there is no separation of powers. The country suffers from one of the most primitive medico-legal systems in Asia, which is a significant hurdle for victims trying to achieve justice. There is not even a recognized forensic laboratory in the country.

3. There are two expressions the use of which brings about abject fear among all sectors of society in Bangladesh. One of them is "crossfire". While the government uses "crossfire" to mean gun fights between any section of the armed forces and civilians, such as criminal gangs and terrorists, the popular meaning of the term is persons being killed by the armed forces extrajudicially, with the justification being given as 'an unavoidable death by crossfire'. Like 'encounter killings', crossfire is a term that people use sarcastically. The sinister connotation associated with the word demonstrates the utter powerlessness of the general population of Bangladesh in the face of the extrajudicial killings that are taking place around them, of which people feel anyone could a victim.

4. The other expression that brings fear is Rapid Action Battalion (RAB), the military units most often associated with crossfire incidents across the country. In principle, the RAB assists the police in arresting, detaining and handing over criminals. However, in practice the RAB operate as hit men. This is in a country where there is already little faith in the normal policing system, where the popular view of the police is that they either use crime investigations to make money for themselves or they conduct illegal services on behalf of politicians. From the inception of the RAB, the number of "crossfire killings" has increased: from June 2004 to end of December 2005, 516 persons were killed by law enforcement agencies in "crossfire". The overwhelming perception is that many if not most of these deaths have in occurred after arrest. However, within the judicial system there are few possibilities to complain, so such killings are not investigated and go unpunished.

5. The civil society of Bangladesh is unanimously opposed to existing policing, be it conventional or carried out by units like the RAB. However, the two major political parties have not yet arrived at any serious assessment or strategy to overcome the problems. Instead, anti-terrorist propaganda is being used to stifle any attempts at reform. New units like the RAB are used to spread fear through extraordinary violence.

6. Random and mass arrests go hand in hand with this wanton violence by state agencies and the collapsed judicial system in Bangladesh. At the start of February 2006 over 10,000 persons, mostly poor, were arrested without warrant through the abusive application of section 86 of the Dhaka Metropolitan Police (DMP) Ordinance and section 54 of the Criminal Procedure Code (CrPC). Most were held in custody and not brought before courts within 24 hours of arrest as

required by law. Others have been produced on fabricated and politically-motivated charges. The Asian Legal Resource Centre (ALRC) has received a number of documented cases that highlight the flagrant and arbitrary nature of the mass arrests, including the following:

a. Md. Khairul Islam was arrested by the police on the evening of February 3 while on his way to nightshift at a garment factory in Arambag in the Motijheel commercial area, Dhaka. He was taken to the Motijheel police station, where the police purposefully falsely implicated him in a theft case before producing him before court. Despite the fact that the Metropolitan Magistrate Court in Dhaka granted him bail on February 4 he had still not been released from Dhaka Central Jail on February 5 as his family had not been able to pay the jail police a bribe of 300 Taka (USD 5).

b. Rafik Khan was arrested from his hut in Kadamtali village on February 2 by policemen from the Ikuria police station. They broke down the door and entered into the hut, where he was sleeping. They arrested him without giving any specific reasons or laying charges against him. The police intimidated his mother, Shefali Begum, who was also sleeping in the hut. Shefali collects abandoned papers from the streets of Dhaka city and sells them to paper mongers. Her son works as a painter. Rafik Khan had still not been produced before the court by February 5. Little else was known about his whereabouts or personal integrity at that date.

7. On February 5 a High Court Division Bench of the Supreme Court of Bangladesh issued an injunction restraining the government from any further arrests without warrants under section 86 of the DMP Ordinance and section 54 of the CrPC. The Court directed the respondents to submit a report in two weeks detailing the names and particulars of persons arrested under the two laws. Following the intervention of the Appellate Division Bench of the Supreme Court, the government has been granted a further two weeks to present its report. The High Court Division Bench asked the government to explain why the 'wholesale' arrests and detention of citizens under section 54 of the CrPC should not be declared illegal and why it should not be directed to refrain from 'unwarranted and abusive exercise of powers' under section 86 of the DMP Ordinance. It also called upon the government to explain why section 86 of the DMP Ordinance should not be declared unlawful and contradictory to the constitution of the country, and why the government should not pay compensation to the victims.

8. Although this injunction brought a temporary halt to the arrests, it was not before thousands of persons had had their rights violated and exposed to serious abuse. Those persons released on bail face the prospect of several years in trial on fabricated charges and all that this entails. Even those who are ultimately freed may remain blacklisted and be the first arrestees in future operations.

9. The Asian Legal Resource Centre therefore urges the Commission to push for strenuous and significant changes to the situation of human rights and rule of law in Bangladesh in order that basic institutions of justice are reinforced with a view to establishing minimal conditions for the rule of law and hence for the protection and promotion of human rights. In particular, it draws attention to the following.

a. Special investigating units must be assigned, preferably under the direction of the Attorney General or another quasi-independent body, to speedily and efficiently investigate all complaints of grave human rights abuses. In this regard, the Government of Bangladesh must order

independent judicial investigations into all extrajudicial arrests, detentions and killings, and release and drop charges against persons kept in custody illegally

b. The ALRC recalls that on April 7, 2003 the Supreme Court of Bangladesh ordered the authorities to refrain from abusive use of section 86 of the DMP Ordinance and section 54 of the CrPC. Despite such court challenges, the authorities in Bangladesh use every available opportunity to ignore such instructions. The Government of Bangladesh must be pressed by the international community to make a commitment to no further misuse of these or other provisions.

c. The boundaries of freedom are in Bangladesh clearly demarcated and limited by the use of state-sponsored violence. The state of terror in Bangladesh is not only a human rights issue but is also a fundamental development problem to which international agencies must pay special attention. The widespread loss of belief in rational state behaviour caused by financially or politically-driven police officers interfering people's lives kills all initiatives for social progress. Qualified people who want to live free lives with their families and wish not to be involved in corruption find nothing in Bangladesh. Those who wish to be successful must learn to coexist with corrupt policing and administration. The problem of the collapsed rule of law and rampant state-organised violence in Bangladesh is therefore a problem of all international agencies concerned with the country's development, and not merely the Commission and its arms.

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