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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**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.

[28 May 2020]

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

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Bangladesh: Access to justice amidst COVID-19 for pro-opposition litigants are dealt with draconian laws and discrimination

The Asian Legal Resource Centre (ALRC) draws attention of the United Nations Human Rights Council and its Special Procedures to the realities regarding access to justice in Bangladesh, an incumbent member of the Human Rights Council.

The President of Bangladesh, on 9 May 2020, promulgated “Information Technology Usage Ordinance by the Court, 2020” (Ordinance Number 1 of 2020) to introduce virtual judicial proceedings during the COVID-19 pandemic. The Ordinance is promulgated for encouraging ‘physical distancing’ in the judiciary of the country. The Supreme Court of Bangladesh has issued a 15-points ‘Practice Directions for Virtual Court for the High Court Division’ in compliance with the Ordinance. The High Court Division of the Supreme Court of Bangladesh has issued several circulars about the process, and considering bail-petitions as the judicial priority, since the promulgation of the Ordinance.

While the objective of the Ordinance may sound contextually attractive during the global pandemic; however, the practitioners experience multiple difficulties coupled with discriminations in the process. Since the commencement of virtual judicial proceedings on 11 May neither the judicial staffs nor the lawyers had adequate training on handling the digital devices and the technicalities of the virtual system in a judiciary, which is already under-resourced, having inefficient work force, and lacking competence at all layers of judicial and non-judicial staffs.

The ALRC interviewed lawyers of the Supreme Court, who requested not to disclose their personal identity due to security threats from the State agencies, to know the realities about the virtual judicial proceedings.

A lawyer of the Supreme Court of Bangladesh explained that the lawyers of the defendants are expected to file their bail petitions by emails to the particular Bench Officer of the High Court. The petition requires: 1. hard copies of the Lawyers’ Brief (locally termed as ‘Wakalatnama’) that can be bought from the Bar Association and the Brief travels back and forth between the lawyer’s chamber and the client, who are mostly detained in prison; 2. Court Fees Stamps that needs to be purchased from the relevant vendors at the Court premises; 3. Scanning the entire set of documents as PDF files from commercial shops while most Bangladeshi lawyers do not have private scanning facilities to scan documents in bulk. The procedural requirements do not help archive the objective of maintaining ‘physical distancing’ during the COVID-19 pandemic. A petition must be proven to be ‘urgent’ for its eligibility before the hearing through the virtual proceedings. The Bench Officers do not acknowledge the emails once the lawyers send their petitions in compliance with the requirements. There is no accessible Cause List of the daily hearing. As a result, the lawyers of defendants have to login and sit in front of the digital device for the whole day without knowing the exact time of the hearing on the petition. The judges, who are mostly politically biased to the incumbent government, take the advantage of poor internet connectivity and abandons the hearing while the litigants belong to the opposition.

A lawyer accused the police of abusing draconian laws such as the Special Powers Act of 1974 and Digital Security Act of 2018 against people having association with the opposition political parties. Both laws, among many others, have vague definitions of offences that are used in politically motivated cases to suppress the dissenting voices in Bangladesh. The Subordinate Judiciary, including the Magistracy and Sessions Courts, mostly reject the bail petitions when someone is implicated in these draconian laws. As a result, the detainees have to languish in prison for around three months to get their bail petitions heard in a High Court Bench, which costs very amount of money.

Case-1: The Dhaka Metropolitan Police arrested Mr. Md. Parvez Hossain, a lawyer of the Supreme Court Bar Association, on 26 February 2020 from his law chamber in Dhaka while he was having meeting with his clients. The police claimed that a number of books written by persons having political affiliation with Bangladesh Jamaat-E-Islami party were seized from his chamber although none of the books are legally banned in the country. Mr. Parvez

along with 11 others were charged under Sections 4, 8(2), and 15(3) of the Special Powers Act of 1974. The Metropolitan Sessions Judge of Dhaka Mr. K M Emrul Kayesh had rejected the bail petition while the lawyer remains in detention till date.

Case-2: The Singra police of Natore district had arrested 17 youths while they were chatting in an open air park. After taking them in the police cell the Singra police registered allegedly a trumped up case under Section 15 of the Special Powers Act of 1974 on 10 March 2020. All the 17 youths have been detained in prison since then. After a hearing at the High Court Bench through the virtual proceedings an Ad-interim bail is obtained by the detainees' lawyer. However, the Chief Judicial Magistrate's office in Natore do not acknowledge and accept the Court's Order communicated via email by the lawyer using the excuse that the High Court's order was not available in database of the judiciary although the High Court Bench Officer had also sent the same via email copying the Office of the Attorney General for Bangladesh.

Bangladesh's virtual judicial proceedings is still plunged into its conventional entrenched corruption, according to the lawyers and litigants. The ALRC has learned from the lawyers that the Bench Officers demands bribes via their *B-Kash*, *Rocket*, and *Nagad* accounts - mobile phone based cash transfer systems in Bangladesh - for bringing a case for hearing by the Bench. The lawyers and litigants who do not want to participate in such corruption face delays in hearing their cases in the Courts.

The situation in the non-metropolitan cities where public transport system, scanning facilities, and internet connectivity is less convenient is even worse. A number of district bar associations have officially decided not to participate in the virtual judicial proceedings in the given inconvenient situation. This has made the fate of the detainees uncertain that has enormous impact on the economic life of the families having their sole breadwinners detained.

Journalists, online activists, and dissidents have been continuously facing trumped up charges under the Digital Security Act of 2018. In a dysfunctional judicial system having almost absolute control by the Executive Branch of the State it is impossible to obtain judicial remedy on basis of merit in Bangladesh under the incumbent government, which has renewed its power through sham elections.

Bangladesh enjoys membership of the Human Rights Council mostly to abuse the platform with an opposite picture on the ground within its territory. The Council needs to comprehensively understand that Bangladesh efficiently hides its catastrophic human rights records behind the Rohingya crisis and only allows access to those who merely focus on the Rohingya refugees' affairs and remain prepared to ignore the gross violation of rights against the native citizens. The COVID-19 pandemic has been another excuse for the incumbent government to curtail freedoms of the citizens. The Council should not fail itself and the international community by overlooking Bangladesh's coercive system that consistently commit serious human rights violations.
