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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.

[20 August 2020]

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

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Bangladesh: arbitrary detention used as a complementary tool by the government and a coercive law enforcement system

The Asian Legal Resource Centre (ALRC), and Odhikar, once again draws the attention of the United Nations Human Rights Council and Independent Experts of its Special Procedures. It concerns the systematic use of arbitrary arrests and detention, as a tool for silencing citizens, coercing State power and enjoying corruption.

Bangladesh is a State where legality or a rational reason has become a non-requisite for arresting a person. A coercive Law-Enforcement System and a government that came into being through facial elections consecutively retain State power by using brute force of Law Enforcement Agencies and other organs of the State. They complement each other for their mutual interests. Arbitrary arrests and detention benefit both the ruling party and the Law Enforcement Agencies. For seizing power, the incumbent Government's topmost agendas remain silencing the critics and ruining the opposition. The Law Enforcement Agencies like the Police and the Rapid Action Battalion (RAB), and the intelligence units step forward to provide the expected service to their incumbent political and bureaucratic coteries. The reciprocation of exercising arbitrary power is self-rewarding in Bangladesh's current state of affairs, where no institution exists to hold perpetrators accountable. Professionalism and efficiency are the only required for facilitating the power-mongering business involving uncontrollable corruption.

Take the example of Shafiqul Islam Kajol, a journalist who edits a vernacular online news portal named The Daily Pokkhokal. He remains arbitrarily detained in prison since 3 May 2020 after his disappearance for 53 days from 10 March. Shafiqul disappeared after ruling party lawmaker Saifuzzaman Shikhor registered a case under the Digital Security Act-2018. Shafiqul shared media reports on his personal Facebook profile on sexual scandals of a group of high profile politicians and bureaucrats of Bangladesh. The ruling party leaders filed two more criminal cases against Shafiqul under the Digital Security Act in Dhaka. The country's Border Guards later broke a story of arresting Shafiqul at the Bangladesh-India Border for and alleged trespassing into his home country from India. In order to justify the allegation of the trespass the Border Guards personnel filed a case under the Bangladesh Passport Order-1973. The Police filed another General Diary Entry, under Section 54 of the Code of Criminal Procedure-1898, to keep him detained in prison. The Courts repeatedly rejected bail petitions filed by Shafiqul's lawyers in the virtual court proceedings during the COVID-19 pandemic. In order to cover up the scandalous activities of a group of influential ruling party politicians and bureaucrats the Journalist was made a scapegoat. The Police, the Border Guards, and the Judiciary are colluding together in the process of keeping Shafiqul detained in prison without legitimacy.

Incarceration on imaginary suspicions is the way of law-enforcement in Bangladesh. The recent detention of 255 migrant workers after having been deported from the Gulf countries is another proof to that fact. Some Bangladeshi migrant workers were imprisoned after being convicted in Bahrain, Kuwait, and Qatar for petty crimes like consuming drugs, theft or overstaying after work permits expired. Having served most of their prison terms they were granted royal pardons of those States and were deported during the COVID-19 pandemic. Upon arrival in batches, the Bangladesh Authorities sent the returnees in a few groups, to a military controlled quarantine facility in the outskirts of Dhaka between April and July 2020. After completion of the quarantine period, the Government used the Police to detain these 255 deported migrant workers in prison on suspicion of future crimes they may commit if set free. The Police used Section 54 of the Code of Criminal Procedure-1898, which is routinely used for detaining people without approval of the Judiciary. Although the Supreme Court of Bangladesh ordered the Police not to abuse this particular provision of the colonial-times law, the law-enforcement agencies enjoy impunity for abusing their powers as their coercive actions are endorsed by the highest authorities of the government. The Police have also accused the 255 people of 'conspiring against the government 'and 'tarnishing the image of the country'. However, the law-enforcement agency failed to produce any evidence before the Courts to substantiate such accusations. The detainees languish in jail for nearly two months while the Police are legally obliged to complete investigation within 15 days as per

Regulation 261 (c) of the Police Regulations of 1943. The Police's failure to accomplish the investigation should lead to the release of the detainees after a period of 15 days. Prominent human rights activists have demanded the unconditional release of the detained migrant workers.

The cases that the ALRC has referred to in this Written Statement are examples of innumerable similar incidents that cripple people's lives in Bangladesh. Apart from those examples, the ALRC's sister organization the Asian Human Rights Commission has documented that 100 people have been detained in trumped-up charges under the Digital Security Act from January to July 2020. These statistics exclude the incidents of arbitrary detentions under other draconian laws such as the Special Powers Act-1974. It indicates the ordinary person's helplessness in a severely dysfunctional justice mechanism. It establishes the fact that access to justice does not exist in Bangladesh.

The ALRC reiterates that there is an inseparable connection between the system of rigged elections and the arbitrary use of power, including arbitrary detention of citizens. The Law-Enforcement Agencies use their uniforms to extract bribes for themselves and protect the incumbent Government that came to power for a consecutive third time through facial elections. In return, the government rewards the Law Enforcement Agencies for committing gross human rights abuses including arbitrary detention, fabricating criminal cases against dissidents, extra-judicial killings and disappearing opposition supporters and critics. Retaining power means keeping an un-deserved flow of income for the ruling politicians through corruption. Thus, the ruling party and the law-enforcement agencies and the civil and military bureaucrats complement each other in collusion with the Judiciary in Bangladesh.

The ALRC draws the Human Rights Council's attention to the concluding observations of the Human Rights Committee and the Committee Against Torture and the recommendations of the 3rd Cycle of Universal Periodic Review (UPR). These review reports guide us in understanding the realities of human rights in Bangladesh today. They can be mirrors to see how Bangladesh's incumbent government exploits the United Nations (UN) human rights mechanisms and disregards the recommendations of the UN independent human rights experts.

The UN has been advocating its Agenda 2030 to achieve Sustainable Development Goals (SDG). The pre-condition of achieving the SDG is ensuring universal access to justice for all in compliance with Goal-16.

As of 2020, the policies, actions, and infrastructures of Bangladesh do not demonstrate its willingness let alone its commitment, to 'provide access to justice for all and build effective, accountable and inclusive institutions at all levels'. Bangladesh's incumbent government has established an authoritarian system by removing the process of democratisation in all of the State. This is the greatest impediment to building institutions. It is proven in many parts of the world that peace and justice are unimaginable without democracy and the Rule of Law. The existing system in Bangladesh is highly coercive and corruption-friendly for the ruling politicians and the civil and military bureaucrats, as well as the financial elites that are allies to the incumbent government.

The Human Rights Council and the International Community must emphasise consistently the urgent need of democratisation, as its topmost priority. This may pave the way to transformation of the criminal justice institutions of Bangladesh. The criminal justice mechanisms must be competent to hold the coercive Law Enforcement System accountable. Only then will abolishing impunity, and administering justice for the gross human rights violations and ordinary crimes be possible leading to establish peace, stability, and economic growth benefiting everyone without discrimination in Bangladesh.