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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.

[28 February 2007]

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

Pakistan: A leading light in rights or a front-runner in abuse?

Pakistan was elected to the United Nations Human Rights Council in May 2006, and as a founding member of the international system's apex human rights body, should be expected to be a leading light concerning such rights. The country pledged that it would be a champion of rights as part of its election campaign. However, in reality, Pakistan is a key front in the so-called "War on Terror" and is beset by internal conflict, gross and systematic violations of human right, and severely degraded institutions that are meant to deliver the rule of law, justice and the protection of the country's citizens' rights.

Pakistan is under a military regime. Pakistan remains under an ongoing State of Emergency, that was initiated in 1998 and under which a great number of key rights have been suspended – notably, *inter alia*, under articles 16, 17, 18 and 19 of the Constitution that provide for the rights of freedoms of assembly, association, expression and movement. Although Pakistan's parliament has been restored, it serves as nothing more than a rubber-stamp to the exigencies of the military. Despite being a member of the UN Human Rights Council, it has still not ratified International Convention on Civil & Political Rights (ICCPR), or the Convention against Torture (CAT) and its Optional Protocol, to name but two key instruments. The judiciary has not taken an oath on the Constitution.

Disappearances: The number of forced disappearances being perpetrated in the country are a clear indicator of how bad individual security and how elusive the enjoyment of rights have become. Military personnel are kidnapping or arresting, then disappearing and frequently killing, political activists, journalists, human rights activists, religious persons, students and innocent citizens in total impunity and keeping them in incommunicado or killing them. There are thousands cases of disappearances and killings: in the south-western province of Baluchistan alone, more than 4000 people have reportedly been disappeared since a military operation started there in 2001 – they have not been produced before court by the military intelligence agencies, such as the notorious ISI, and their whereabouts remain unknown. This admission was made by the Minister of the Interior before Parliament on December 5, 2005. More than 1000 people have reportedly disappeared in the country's North Western Frontier Province (NWFP), as a result of the "War against Terror." On the other hand, Pakistan's Government is also known to be supporting terrorists, and even made an agreement with the Taliban, providing them with amnesties. During 2006, more than 600 cases of disappearances following arrests by the law-enforcement agencies have been recorded.

Military operations: military operations, including aerial bombardments, which have led to thousands of innocent civilians being killed and hundreds of thousands being made homeless, have been ongoing in two provinces. Over 3000 such persons have died in the afore-mentioned province of Balochistan since early 2001. As part of the "War on Terror" such military actions and individual abuses of human rights have increased progressively and in total impunity. More than 300'000 persons are estimated to have become internally displaced as a result of the fighting. Hundreds of people are believed to have been subjected to torture by the military or police. Balochistan – which enjoys an estimated 40 per cent of the country's natural gas - is being bombed into submission. The killing of a renowned politician - Mr. Sardar Akbar Bugti - and around 37 of his supporters in a mountain hideout by Pakistan's military on August 26, 2006, has caused great unrest.

Secondly, military operations are ongoing in North and South Waziristan, and also include aerial bombardments, killings, arrests and disappearances in the name of the "War on Terror." For example, the military indiscriminately bombed a seminary on October 30, 2006, killing 84 persons, most of whom were children. Earlier, on January 18, 2006, the military bombarded a marriage party, killing 18.

A dependent and failing judiciary: The judiciary in Pakistan is directly under control of military government and is not able to act with any independence. The members of the judiciary are nominated by the military, not through the Parliament. Due to a lack of independence and to institutionalized corruption, the judiciary in Pakistan only delivers justice for the few - the rich, influential or militarily powerful - not justice for all. In 2000, the current military regime brought in the so-called Provisional Constitutional Order (PCO) which replaced Pakistan's 1973 Constitution. At the time, the highest judiciary and provincial high courts sanctioned the military government by taking an oath.

The lower courts exhibit crippling delay, with cases only decided in 6 to 8 years. Cases that go through appeals may take 15 to 20 years. There are millions of cases pending in the courts of Pakistan for the last 30 years. The case of Mr. Mir Murtaza Bhutto, the head of a major political party - the Pakistan Peoples Party - who is also the son of former Prime Minister Mr. Zulfikar Ali Bhutto, is a point in case. Mr. Mir Murtaza Bhutto was allegedly killed along with several friends by members of the Karachi police in a fake encounter, but no police officer has been punished. The case has been pending in court since 1996 without a decision. The allegedly involved police officers have not been suspended and some of them have even been promoted to high-level posts.

Mr. Salim Baloch's case is another example that illustrates the negligence of the judiciary concerning disappearance cases. He was allegedly re-abducted by Secret Service personnel on December 31, 2006 within 36 hours of his giving a statement before the Sindh High Court concerning his 9-month ordeal of arbitrary detention and torture in military cells in different cities in Pakistan. In his statement, Mr. Salim Baloch requested the High Court to provide him with protection, ignored this. On December 20, 2006, he had given the Court the identities of 13 persons being illegally detained in military torture cells in Rawal Pindi. However, The Court took no action concerning this information.

Torture in custody: This practice is on the rise, again due to the ongoing activities being undertaken as part of the "War on Terror." No torturers have been tried and sentenced, however. In 2006 alone, an estimated 1319 persons were tortured in custody.

During January and February 2007 two examples of severe torture stand out. 24-year old Mr. Hazoor Bux Malik, was tortured severely in Market police station, Larkana, Sindh province and his penis was severed during the abuse. Mr. Hazoor Bux Malik, a cook by profession, was arrested on charges of not carrying a National Identity Card, while he was shopping. The Station Head Officer (SHO) is thought to have been responsible for having removed the organ, with the help of five other policemen. The police station registered a case of attempted suicide against the victim, but later, the medical board confirmed that the attack had been conducted by several persons and that the victim had been subjected to torture. No police officer has been arrested, despite being named in a First Information Report.

In another case, in District Khaipur, Sindh, a dangerous limestone solution was poured into 25-year old Mr. Mohammad Ali Mallah's anus by members of the police during torture, causing serious internal injuries and loss of consciousness for four continuous days.. He had been arrested along with his younger brother, Mr. Waheed Mallah, by the Pir Jo Goth police, under suspicion of being involved in the theft of a motorcycle on January 12, 2007 – an accusation that was later proven to be false. However, Mr. Abdul Sami Vaser, the Assistant Sub Inspector (ASI) of the Pir Jo Goth police station, refused to release the two men until they paid him Rs. 50,000 (USD 833). . It is alleged that the said ASI forced the victim to drink the solution and also forcibly forced it into the victim's anus. Following this, high police officials in the Sindh province pressured the victim's family to make a statement that the victim had attempted to commit suicide. Here again, despite the gravity of the torture, those responsible remain free and enjoy total impunity for their acts.

Complete lack of progress in police investigation into the horrific killing of a human rights activist's son: In another case that exemplifies the impunity and violence inherent in Pakistan's system,

21 year-old Faraz Ahmed was kidnapped and murdered by unknown persons on November 8, 2004. Since then, the police have not made any progress in the investigation. Faraz, a peace-activist himself, is the son of Baseer Naveed, a prominent human rights activist and journalist in Pakistan, who led the movement of more than 50 communities against the construction of Lyari Expressway in Karachi and has fought against the Army-backed Islamic militancy since the 1980s. It is believed that this attack resulted from both the son and father's activities in favour of human rights and peace.

It is reported that Mr. Manzoor Mughal, the Deputy Inspector General (DIG)-Investigation of Sindh province, removed three investigating Sub-Inspectors (SI) and three Deputy Superintendents of police (DSP), who were working on the case during the last two years, in order to ensure that the case remains stalled. At least two other DSPs who were making progress have been immediately transferred. Faraz's parents allege that the police are deliberately avoiding returning his belongings to them. It is believed that Faraz's diary may include the actual clue to find out the cause of his death and identify his murderers. It is alleged that State-agencies are behind the murder, which is why the police stalling with the investigation. The victim's parents have received threatening phone calls from unknown persons and another of their sons was beaten up by unknown persons only 23 days after the murder of Faraz Ahmed. The punishment of a human rights defender through attacks on his family is to be abhorred. The fact that no efforts, other than to undermine the investigation are being made by the police, is symbolic of the collapse of this institution.

The situation of women's rights: The ALRC is extremely saddened to report that the government's lack of protection for women has resulted in a drastic increase in cases in rape, honour killings, abductions and forced marriages over the past 6 years. From 2000 to 2006, an estimated 9,379 women were killed throughout Pakistan, in different disputes, including 117 from rape. There were another reported 3,116 cases of rape, 1,260 gang rapes, 4,572 honour killings, while 1,503 women were burned to death. The State is failing in its duty to provide protection to these women and is providing impunity to the men responsible for these acts.

In conclusion, is Pakistan a leading light - as its membership in the Human Rights Council should indicate - or a leader in abuse? It is clear from the levels of disappearances, torture, impunity and insecurity in Pakistan, that it can only be viewed as one of the worst rights abusers in Asia. That a country that flagrantly flouts most rights should be part of the UN Human Rights Council is an international scandal. Pakistan must immediately lift the State of Emergency, restore rights, and halt the abuses that it is committing. The whereabouts of all those disappeared must be located immediately and without omission. The international community, notably the other members of the Human Rights Council, must drag themselves out of complacency and ensure that effective investigations, successful prosecutions by an independent judiciary, and suitable punishments and reparation are given to the perpetrators and victims respectively. If the Council is unable to this, it should at least ensure that Pakistan is removed from its membership.
