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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement\* submitted by 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.

[30 January 2003]

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

### Reunion of Kashmiri families

1. Article 10(1) of International Covenant on Economic, Social and Cultural Rights (ICESCR) states that the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society. Yet as previously noted by the Asian Legal Resource Centre (E/CN.4/2002/NGO/68), since the 1947 division of Kashmir, families living on either side of the border have been denied the right to reunite.
2. The Line of Control (LOC) established between Indian and Pakistani occupied Kashmir denies Kashmiris the right to freedom of movement, in contravention of article 12(1) of the International Covenant on Civil and Political Rights. The LOC has separated mothers from their children and sisters from their brothers. For many divided families there is a distance of only a few miles between them, but the foreign forces of occupation have not allowed them to meet with their loved ones for the last 54 years. Those able to get permission to cross must travel a circuitous route—sometimes thousands of miles—to cover the distance between them of only a few miles. Sadly, most of the first generation of separated families has already passed away; its dreams to reunite left unfulfilled.
3. By way of example, Dr Khairaat Ahmad Ibn Rasa, a retired vice-chancellor of Lahore University now residing in Model Town, Lahore, left his hometown, Bhaderwah (Indian Occupied Kashmir), in search of his beloved, who migrated to Pakistan in 1947 following communal tension. Her parents refused to send her to Indian administered Kashmir and Khairaat had no other option but to settle down there, away from his family. In 1999, his elder brother died in Bhaderwah (Indian Occupied Kashmir), but despite his best efforts Khairaat was not allowed to visit. Khairaat could not reach his hometown even when his father died, as he was stopped at the airport by Pakistani authorities. In the last letter received by his family, he had mentioned his last wish "to come and die in his motherland and be buried beside his father and brother".
4. According to UN resolutions, Kashmir is a disputed territory the future of which must be decided through a fair plebiscite. However the right of families to live together is a humanitarian issue that transcends regional conflict and demands an international response.
5. In light of the facts mentioned above and taking into account the recent family reunions between North and South Korea, the Asian Legal Resource Centre calls upon the Commission to
  - a. Guarantee the divided families of Kashmir the liberty to exercise their basic right to freedom of movement.
  - b. Appoint international observers along the LOC and build family reunion centres, where members of divided families can be allowed to meet.
  - c. Ensure the safety of unarmed civilians attempting to cross the LOC.

- d. Promote recognition of the right of the Kashmiri people to self-determination— which is the root issue— in accordance with the UN Charter. In this regard, the Asian Legal Resource Centre again draws the attention of the Commission to the resolution of the United Nations Commission for India and Pakistan of January 5, 1949, which denied the Kashmiri people the right to remain an independent nation. This resolution both contravenes the UN Charter and also the internationally recognized definition of self-determination contained in article 1(1) of the ICESCR. Accordingly, the Kashmiri people must be given the right to self-determination in keeping with internationally accepted principles.

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