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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.

[11 February 2013]

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

Pakistan: Human rights will remain a mirage in Pakistan without state's political will to guarantee them

1. The Government of Pakistan will undoubtedly be proud of the number of votes it received in the re-election to the Human Rights Council. However, this might lead to the false idea that the country must be doing something right and therefore may continue to ignore its international obligations. Re-election should be a reward for doing something right. Perhaps now might be the time for the country to prove that it is worthy of this reward by complying with its obligations. This might be the time for the international community to ask for a definitive answer as to when Pakistan is going to recalibrate domestic laws to meet international human rights standards, abolish the blasphemy laws, death sentences, introduce legislation to make torture a crime and ensure that the military is placed firmly under the Constitution in order to stop the enforced disappearances and extrajudicial killings that inevitably follow?

2. The Asian Legal Resource Centre (ALRC) has serious concerns about the speech made by, Ms. Rabbani Khar, the foreign minister, on the occasion of second UPR on October 29, 2012, at Human Rights Council's 14th session. The ALRC was disappointed that the Pakistan in its official statement has totally ignored issues like wide-spread corruption; impunity of supra-constitutional forces; the absence of the rule of law; killings of the persons from different Muslim minorities sects; the continuous persecution of the Ahmadis; increasing incidents of forced conversion to Islam and forced marriages - particularly sponsored by the members of the parliament belonging to ruling party; the reasons for the exodus of the Hindus to neighbouring India and the lack of government protection for the members of these communities; persecution of religious minorities; holding of Jirgas (an illegal practice of arbitrary dispute settlement by the powerful groups); honour killings; trafficking of women and children; widespread torture in custody; disappearances after arrests; extrajudicial executions by the police and by the armed forces; the ongoing assassinations and harassment of journalists; conversion of Sindhis - the indigenous people of Sindh province into an ethnic minority; unequal water distribution among the different provinces; poor industrial working conditions including minimal health guarantees; inadequate housing and educational facilities; and bad governance and corruption in the judicial system. Ms. Rabbani Khar intentionally left these out in her report as if the minister does not believe that these are rights violations.

3. While the government has passed legislation on the women's issues and for their protection, it has miserably failed to enforce any of these legislations. Cases reported by the Asian Human Rights Commission (AHRC), a sister concern of ALRC, from Pakistan illustrate that women and children continue to be treated as beasts of burden. The government has ratified the ICCPR, CAT, ICESCR, CEDAW and the CRC. However, the country is yet to have legislations that would let these international human rights commitments, as realizable rights with remedies in Pakistan.

4. Due to the absence of a functioning criminal justice framework and weak prosecution, torture in custody and extrajudicial executions has increased rapidly in comparison with previous years. Every police station has its own private torture centres besides their lock ups. Every cantonment area of the armed forces runs at least one torture centre and the Inter-Services Intelligence (ISI) offices have their 'safe houses'. The Air Force and Navy also operates their torture cells. The AHRC has documented numerous cases in which these centres are positively identified, and the information sent to the authorities.

5. The government has failed to legislate to make enforced disappearances a crime. The police and armed forces use enforced disappearance as an instrument of terror. Due to this extrajudicial executions and enforced disappearances have increased throughout the four-year period under the UPR.

6. The minister said that, "... in May 2012, Pakistan enacted a new law creating an independent National Commission for Human Rights (NCHR) in accordance with Paris Principles." However, no initiative has been taken by the government to complete the process of NCHR. It is appreciated that the NCHR has been created in accordance with the Paris Principles. However the government's claims that the NCHR will visit detention centres and monitor the human rights situation and that it will be independent and can summon and try officers of the armed forces is to be viewed with extreme suspicion in the absence of a single successful prosecution. The government has till date not constituted its members and chairpersons at federal and provincial levels. In fact, the government has turned a blind eye to the arrogance of the police and armed forces in their blatant refusal to comply with the orders of the courts.

7. Though the minister brought up the problems of terrorism, the minister said nothing about what the government has done to combat it. This is due to the appeasement policy followed in Islamabad. There have been numerous instances where leaders and spokesmen from banned organisations, some of them internationally wanted, are allowed to make hate speeches in full public view. These criminal elements collect public donations, but nothing is done to arrest them for fear of upsetting the extremists. The government has arrested thousands of alleged extremists over the past four years but there have been no successful prosecutions due to the lack of proper witness protection and half-hearted attempts by the prosecutors to obtain a conviction. This has only led to the extremists utilizing the weaknesses of the law to their own benefit.

8. The assurance of the minister regarding equal protection of law to all citizens, is nothing less than an insult to the people of Pakistan where religious minorities are harassed and killed daily. Targeted attacks on the Shiites take place in broad daylight on public roads in the presence of persons in military uniform. To date, every year, around 200 Shiites are killed in this manner and the groups that claim responsibility for these killings move freely and even have offices in the major cities. Despite the constitutional guarantee of freedom of religion, minority groups are not protected. The Ahmadis are frequently attacked for their beliefs, their places of worship attacked and not allowed to carry out their religious observances. They are disenfranchised and are not allowed to bury their dead in public graveyards.

9. Religious fanatics who rape and abuse Christians and Hindus with impunity consider the women of these communities as free game. Harassment and forced marriage and conversions of both Christian and Hindu women to Islam is common. When victims approach the courts, judges rule in favour of the abductors or kidnappers who are supported by religious fundamentalists. Religious discrimination is the reason for massive migration of Hindus out of Pakistan.

10. Dozens of journalists are arrested, tortured and killed in the country. 16 and 8 journalists were killed in 2001 and 2012 respectively. Pakistan has remained a national security state and it is difficult to imagine how the "Right to Information" is now guaranteed. The Official Secrets Act, 1923 enables anyone to be declared as an enemy of the state. This restricts the media from reporting adversely on military operations or killings by military officers. YouTube and many international websites are banned in Pakistan on the pretext of blasphemy and obscenity.

11. Blasphemy laws control what students can write in their examination papers. Religious affiliations of the ordinary people are judged and controlled by the operation of this law. It authorizes any person to accuse someone of blasphemy for any petty reason that might suit him or her. Since 2008 almost all the member states of the UN HRC have been requesting Pakistan to repeal this law. The blasphemy law will remain a tremendous barrier to the promotion of democracy in the country.

12. Recent reports iterate the use of children to collect waste and offal of animals sacrificed during Eid celebrations. Child labour is a common practice and it is estimated that as many as 20 million children are engaged in manual labour in Pakistan. This is particularly common in the rural areas where children are used as bonded labour to pay off their parents' debts. Over 70 percent of the children in rural areas are denied education and health care.

13. Often the children working in brick kilns and engineering sectors are not paid money, but remunerated with food, once a day. There are reports that over 2,000,000 children have gone missing and are feared to have trafficked. Children are used in the sex industry.

14. Jirgas are used to humiliate, punish and control women. No action is taken when these councils declare a couple karo-kari that leads to honour killings. The government does nothing to prevent the exchange of minor girls as compensation to settle family feuds. Ministers and politicians are heavily involved in the running Jirgas. This explains why the Bill against domestic violence has been pending in parliament since 2009.

15. Just weeks after the speech of the Foreign Minister at the UN HRC in which she explained that the government had placed a moratorium on death sentences since 2008, capital sentence was executed on November 15, 2012. Since 2008 the UNHRC has been demanding that Pakistan should have a moratorium on death sentence. While it is noted that there have been no executions in Pakistan for four years, more than 8,000 convicts continue in the death row. Muslim political parties are exerting pressure upon the government not to remove death sentence from the statute books. The government is conscious of the fact that it requires their support in the forthcoming elections.

16. The situation in Balochistan remains grave. Thousands of people are missing after arrest and human rights abuses continue unabated. Elimination of the evidence is introduced by extrajudicial executions of disappeared persons. People are being denied of their basic rights of handling their own affairs. Military check posts are a common sight and even educational institutions are not spared. The government has imposed governor rule in Balochistan and handed over the control of the province to the Frontier Corps (FC) and the powers of police given to FC which is the root cause of torture, disappearances and arbitrary arrests.

17. Since July, 2010 more than 400 bodies of missing persons have been found in Balochistan. To date around 200 women are also missing. The nationalist groups claim that more than 100 children are being illegally detained by the military. Cabinet members from the area live in Islamabad and only visit the province rarely. The government has constituted two commissions to investigate causes behind the extrajudicial executions and enforced disappearances in Balochistan. One commission that was assigned to complete its report within three months has still not been presented it. The other was formed but has failed to conclude its investigations.

18. Recommendations

- Member states have made their recommendations that military operations should be halted in Balochistan and the government should ensure that laws are fully implemented to investigate and prosecute those responsible for torture, extrajudicial executions and enforced disappearances.
 - An immediate moratorium must be declared on death penalty and equal political participation must be ensured and the reservations placed by Pakistan on Articles 3 and 25 of the ICCPR must be withdrawn.
 - The blasphemy laws must be abolished and legislation must be enacted ensuring freedom of religion and belief for all religious groups. The government must introduce and enforce strong legislations prohibiting attacks on journalists and effectively investigate such attacks and prosecute those responsible.
 - Effective measures must be taken to prevent forced conversion to Islam and forced or early marriage. The government must start a national dialogue with the aim of enacting a national internally displaced persons policy consistent with the UN Guiding Principles on internal displacement.
 - And finally, there must be an immediate and adequate justice reforms initiated in Pakistan, without which any rights, no matter whether they flow from the constitutional guarantees or from international human rights law or from both will be impossible to be realised in Pakistan.
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