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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 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.

[16 May 2011]

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

Pakistan: Impunity for rape and other forms of violence against women must end

1. The Asian Legal Resource Centre (ALRC) wishes to highlight its continuing concerns about the widespread violation of women's rights and cases of serious violence against women, including sexual violence, in Pakistan.

2. The ALRC recalls that Pakistan acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 12 Mar 1996. Furthermore, during the country's Universal Periodic Review (UPR) on May 8, 2008, the government accepted several recommendations concerning women's rights and violence against women. Despite this, as will be seen below, violence and discrimination against women remains a critical issue in the country and the authorities are not taking credible or effective action to address the many grave cases of abuse that continue to take place with impunity.

3. Key accepted UPR recommendations made to the government of Pakistan include the following:

- Adopt measures to ensure that victims have access to protection and redress, that perpetrators are prosecuted and punished, and that gender sensitivity training be provided to relevant officials.
- Ensure punishment for perpetrators of all violence against women and also thoroughly investigate and punish members and leaders of illegal jirgas for their calls to violence against women.
- Continue with appropriate measures to eradicate discrimination and violence against women including domestic violence and to strengthen existing measures to thoroughly investigate crimes related to violence against women.
- Continue with appropriate measures to eradicate discrimination and violence against women.
- Take measures to provide redress for crimes of honour killings, acid attacks and forced marriages.

4. As can be seen from the above, the issue of ensuring access to justice, effective investigation of allegations and prosecution of perpetrators are at the core of these recommendations. However, the ALRC has been deeply disappointed by developments concerning women's rights activist and gang-rape victim Mukhtaran Mai attempt to secure justice and challenge the impunity of the men who raped her some nine years ago. On April 21, 2011, the Supreme Court of Pakistan upheld the verdict of the Multan bench of Lahore High Court, which had been suspended as the result of a *suo motu* notice by the Chief Justice in 2005. The high court had reversed a trial court's judgment on the unjustifiable basis of "insufficient evidence and faulty police investigations" and meant that all but one of the six men allegedly responsible for Mukhtaran Mai's gang-rape on June 22, 2002, were to be released. Only Abdul Khaliq remains in prison to serve a life sentence.

5. In August 2002, six of the men had been sentenced to death by the trial court - four for raping Mukhtaran Mai and two for being part of the Panchayat that ordered her to be raped as punishment for adultery that her brother had alleged committed. The Panchayat and other tribal and feudal modes of parallel justice systems exist and operate in Pakistan, in violation of the country's constitution. Yet, this case shows how the country's constitutional legal system is assisting in protecting the outcomes of the parallel, unconstitutional traditional justice system. The Multan bench later acquitted five of the six on appeal and converted the death sentence of Abdul Khaliq to life imprisonment. It is

preposterous that only one person can be sentenced under charges of gang-rape, with the other alleged perpetrators being released.

6. In upholding the legally flawed Multan bench verdict, the Supreme Court has seriously disappointed all those who support justice and women's rights. This sends the chilling message to all victims of rape in Pakistan, as Mukhtaran Mai has shown exceptional bravery in fighting for justice and accountability, yet despite her efforts and the attention the case has received in Pakistan and internationally, still impunity for the majority of the accused has been upheld. Given the social stigma, threats and dangers encountered by those who dare to pursue justice concerning rape, this ruling by the Supreme Court will only serve to dissuade victims of rape from seeking justice.

7. While Minister Rehman Malik stated on April 22 that he had been directed by Prime Minister Yousuf Raza Gilani to provide security for Mukhtaran Mai, for which the Punjab Police would be responsible, serious concerns remain for her physical integrity, notably as those thought to be responsible for her gang-rape will now be free and likely emboldened by the impunity they enjoy.

8. In another such case, the ALRC's sister-organisation, the Asian Human Rights Commission (AHRC) documented the case of a 16 year old girl who was kidnapped for ransom, along with her brother, on October 14, 2010, by a group of criminals involved in land-grabbing, who are reportedly connected to the police. The girl was gang raped repeatedly during a period lasting almost one month. The girl's father tried to register a complaint concerning the gang rape to the section A police station, Khairpur Mirs, but the police refused to record the gang rape in their report. He then filed an application in the Session court of Khairpur Mirs who ordered the police to file FIR concerning her abduction and rape.

9. Following untiring efforts by the girl's father, the police eventually arrested two persons. However, they were released within two hours after bribing members of the police. The Interior Minister pledged before the Sindh provincial assembly that he would take up the case but no action from the ministry has been taken to date. The family of the victims are facing threats from the alleged perpetrators as well as members of the police to get them to drop the case – this includes threatening to subject the family's other two children with rape.

10. In another case, which shows the dangers and difficulties encountered by rape victims' attempts to seek justice, a female government health worker was allegedly raped by a notorious gangster, with the help of two police informants, on December 9, 2010. An FIR was only lodged by the police five days after the rape, in order to allow time to pass, destroying the physical evidence of rape. The police, instead of filing a rape case, filed a case of attempted rape in order to shield the perpetrators. While the alleged rapist has been arrested for attempted rape, the police informants who allegedly restrained and beat the victim continue to enjoy protection by the police. High ranking police officers have reportedly been coercing the victim into settling the case out of court. It is understood that the alleged perpetrator of this rape had been harassing the victim since 2009 and that she had reported this to the police, but they had told her to come back if and when the crime of rape had been committed, as they could not do anything until then.

11. The Asian Legal Resource Centre calls on the members of the Human Rights Council and the UPR Working Group to request an update from the government of Pakistan concerning its implementation of the many recommendations that it accepted as part of its review in 2008. It is important that the government provide an update on any progress made prior to its next review, in order to ensure that the second round of the review is conducted in the most informed way possible.

12. The ALRC calls on the government of Pakistan to go beyond lip-service to the international community and ensure swift and decisive action to implement the recommendations included in the UPR outcome concerning discrimination and violence against women. Furthermore, the government must take action to punish all persons who participate in anti-constitutional parallel justice system who aid, abet or commit violations of women's rights, in particular acts of sexual violence such as gang-rape. The government must also take the lead in providing effective protection to victims of such abuse, in order to encourage them to come forwards and break the system of silence, suffering and injustice that currently accompanies such crimes. The government is urged to cooperate fully with the Special Rapporteur on violence against women, its causes and consequences as well as the CEDAW Committee and ensure that it also implements all recommendations made by these mechanisms.
