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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, 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.

[25 August 2014]

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

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PAKISTAN: A call for an immediate intervention to stop extrajudicial killings

1. Extra judicial killings have become rampant in Pakistan; they are being executed with impunity and are rarely tried in Courts. The Asian Legal Resource Centre (ALRC) continues to document hundreds of cases of extra-judicial killings in Pakistan, which are generally accompanied by absolute impunity, due to the lack of investigations and prosecutions. The rampant killings, the lack of effective actions to neither punish them nor provide redress to the victims and their families, speak of the serious lacunae in the justice delivery institutions. Without substantial and structural reforms, ensuring the effective functioning of the country's investigation and justice delivery systems- especially so, in instances where the perpetrators of abuses are alleged to be state agents or members of powerful groups - prospects for the effective protection and enjoyment of human rights, including the right to life, remains extremely dim.
2. At the start of this year, on 16 January 2014, three mass graves were found in Pakistan and according to authorities 17 mutilated bodies were dug up from these graves contrary to reports by eye witnesses who said that around 169 bodies were found. Nationalist groups have also stated that they recognized three missing persons amongst the dead bodies in the graves. Government imposed a curfew at the time, when these graves were found¹.
3. The Government of Balochistan formed a Judicial Commission to probe the findings of the mass graves. The Judicial Commission prepared its report on 20 May 2014. However the report was made public only on the 19th of August 2014. The Commission in their report, failed to point out the causes for the mass graves and those responsible. The report rejected outright the involvement of the government, the armed forces and other law enforcement agencies in the discovery of the mass graves. The report instead, remained non-committed and hinted towards the involvement of a suspect and his accomplices belonging to Khuzdar in the incident².
4. The findings of another such Judicial Tribunal on mass graves in Balochistan province are equally disappointing and consistent with the blatant pattern of shielding the actual masterminds of the mass grave scheme. This new and fresh official investigation tribunal did not come up with any extraordinary revelations except for vehemently ruling out the involvement of the Pakistani army and the government in the killings – which falls far below an adequate response to such a shocking and horrific discovery of human bodies.
5. Article 9 of Pakistan's Constitution provides that "no person shall be deprived of life or liberty save in accordance with law". The Supreme Court of Pakistan has held that extra-legal executions "violate Article 9 of the Constitution which confers, protects and preserves life, liberty and property of all citizens" of Pakistan. Further, Article 6, Paragraph 1 of the ICCPR establishes respect for the right to life as a primary obligation of states that have ratified the Convention. It states that "every human being has the inherent right to life and that this right shall be protected by law adding that no-one shall be arbitrarily deprived of his life". Although the ICCPR does acknowledge the permissibility of restricting some rights in certain circumstances such as the need to maintain public order etc., the arbitrary deprivation of life of even the most hated "terrorists" is never justified.
6. In contrast to the law, the government of Pakistan has accorded unlimited powers to the various law enforcement authorities to combat terrorism through Pakistan Protection Act of 2014. In September last year, the government has issued the Pakistan Protection Ordinance (PPO), without the approval of the National Assembly. The law provides nine months to all law enforcement authorities to operate illegally to implement the PPO without the express approval of the Parliament.
7. The Pakistan Protection Ordinance (PPO) gives power to shoot a suspect on sight and keep a suspect in detention for 90 days without being produced before a Magistrate. Subsequently the National Assembly passed the Protection of Pakistan Act (PPA) 2014 which permits security forces to shoot suspects on sight with the permission of a grade -15 official. Prior to the PPA was passed by the parliament, law enforcement authorities including, the police, the Pakistan

¹ <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-023-2014>

² <http://www.thenews.com.pk/article-157239-Khuzdar-mass-graves:-Commission-rejects-involvement-of-armed-forces,-agencies>

rangers, the Pakistan Army and Frontier Corps, have all illegally implemented the powers conferred by the Pakistan Protection Ordinance and have been involved in the killing of more than 300 persons in what they term as 'fake encounters' during the first seven months of this year.

8. These "encounter killings" are typically used by the authorities to falsely justify extra-judicial killings. In the case of extra-judicial killing of the 25 year old Sarfaraz Shah on 8 June 2011, by members of the Sindh Rangers paramilitary force, a spokesperson for the Sindh Rangers made a press statement claiming that the victim had been killed during an 'armed encounter' with the Rangers. However, bystanders had filmed the incident that clearly showed the victim was unarmed, non-violent and was pleading for his life while refusing accusations of theft, before he was killed. Therefore the Bill enacted to protect Pakistan; which seeks "to provide for protection against waging of war against Pakistan and the prevention of acts threatening the security of Pakistan" instead is used by the law enforcement authorities to abuse their powers and even to kill the people of Pakistan and with impunity. These killings are part of a wider pattern of arbitrary arrests and abductions, forced disappearances and torture following which, victims emerge dead, often by having their mutilated bodies dumped by the roadside.

9. Canadian and US Foreign Ministers have also expressed their concerns about these extra judicial killings and disappearances in Pakistan. On April 25, 2014 Toronto Sun produced a letter written by Canada's Foreign Affairs Minister John Baird saying that "We are concerned about reports of forced disappearances and extrajudicial killings in Pakistan's Balochistan province ... Canada strongly condemns acts of persecution on the basis of ethnicity or religion and shares international concerns about the treatment of Pakistani minorities, including the Baloch."

10. Within days of Canada expressing "concern" over extra-judicial killings in Balochistan, an assassination attempt was made on Hamid Mir, one of Pakistan's most prominent journalists, who has written about the plight of the Baloch people. On April 18, Mir tweeted: "It's very painful that (Pakistani) security agencies are involved in extra-judicial killings of political workers." The following day, gunmen attacked Mir as he drove from Karachi airport to the headquarters of GEO TV. Six shots were fired, three hitting Mir as his driver dodged bullets and raced the wounded journalist to a hospital, where he is now recovering from his injuries. There was no immediate claim of responsibility, but within hours of the attack, Mir's brother accused the Pakistan army general who heads the Inter-Services Intelligence (ISI) directorate of being behind the assassination bid, saying the ISI "was eating up Pakistan like termites."

11. In the Punjab province, the chief minister, Mr. Shahbaz Sharif, is notorious for extra judicial killings and fake police encounters. During his two time rule in the province he hired such police persons who were treated as experts of 'fake encounters'. On June 17, his government killed 15 political persons belonging to Pakistan's Awami Tehreek (PAT) including two women. Police was ordered by the Chief Minister to clear the barricades from the office of PAT and when there was resistance, the police ordered to shoot directly at the protesters. The provincial government has not allowed lodging any complaint before the police. The Sessions Court has ordered to register the complaints from the victim families but the government has stopped the police to register the case.

12. During this year alone, there were 28 such fake encounters reported in which more than three dozen persons were killed including 9 women and two children.

13. The government on a previous occasion on 5 September 2013 launched a similar operation against target killers, extortionists, terrorists, car snatchers and street crimes. The government gave vast powers to police and Pakistan Rangers including the detention of a suspect for many days for the purpose of interrogation. It is reported that the whereabouts of more than 17,000 persons are unknown since the operation began. It is also reported that about 200 persons were killed while they were in the custody of Law Enforcement Agencies (LEA) or in fake encounters.

14. The dominating political party of Karachi, Sindh province, the MQM, claims that its 28 persons were killed after their arrests. During the operation, Karachi has become a dumping field of the disappeared persons who were arrested by law enforcement agencies. The MQM says that its many workers are still missing after their arrests by the law enforcement agents. The Sindhi nationalists are the direct victims of fake encounters and the AHRC has documented about two dozen cases of extra judicial killings this year.

15. The military is conducting operation in the Federally Administrated Tribal Areas (FATA) of Pakistan situated in KPK province against the terrorist. It is conducting indiscriminate aerial bombardment over several villages situated in

the mountainous areas, killing hundreds of people and media are not allowed to cover the operation. The operation has forced about one million persons to flee from the affected areas. The IDPs report that they have become sandwiched between the military and the Taliban. Military on the suspicion of being militants are killing people on the spot and militant groups, such as the Taliban, are also engaged in similar practices. Therefore obtaining accurate statistics of those extra judicially killed has become impossible.

Recommendations:

16. Given the vast amount of extra-judicial killings being perpetrated in Pakistan with such impunity, the Asian Legal Resource Centre urges the Human Rights Council to take all necessary measures, not limited its intervention to only the Universal Periodic Review but to pressure the Government of Pakistan to take effective action with immediate effect; to assist in a call for an impartial international inquiry into the mass graves found in Balochistan and to address the widespread abuses by;

- a. Guaranteeing the right to life, in line with the provisions of the ICCPR and domestic law, by taking all necessary measures to ensure that all allegations of extra-judicial killings are promptly and effectively investigated and prosecuted, with particular attention given to cases of extra-judicial killings following forced disappearances;
 - b. Carrying out all necessary reforms to the state's institutions of the rule of law - notably the police, prosecution and judiciary - in order to ensure that effective investigations and prosecutions of alleged perpetrators of extra-judicial killings and other abuses become possible, and;
 - c. Tackling impunity more effectively. It is vital for the military including its intelligence agencies, notably the intelligence agency - ISI, to be brought under effective civilian control and the purview of the law, in order to ensure that it respects all court orders and efforts to identify and prosecute any of its members thought to be responsible for human rights violations.
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