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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.

[30 May 2016]

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

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PAKISTAN: Human trafficking a systemic failure of the State and its institutions of justice

1. The Asian Legal Resource Centre (ALRC) would like to draw the UN Human Rights Council's attention to the rise in human trafficking in Pakistan. The country is a source, transit, and destination for men, women, and children who are subjected to trafficking, specifically for forced labor and prostitution. According to reports, women and girls from Afghanistan, China, Russia, Nepal, Iran, Bangladesh, Uzbekistan, and Azerbaijan are subjected to sex trafficking in Pakistan.

2. The country retains its position in the US State Department Trafficking in Persons report for 2015. It remains on the tier-2 watch list of countries that face a major trafficking problem, and whose governments do not fully comply with the Trafficking Victims Protection Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards. The report also notes that the Pakistani government does not fully comply with the minimum standards for the elimination of trafficking.

3. Pakistan is both a country of origin and destination, as far as trafficking of women is concerned. Women in Pakistan are most vulnerable to trafficking due to poverty, gender discrimination, lack of education, and ignorance of legal rights. Around 55-60% of all trafficking victims are women, according to the UN Office on Drugs and Crime's Global Report on Trafficking in Persons 2013. Women and girls are trapped in a structured system, exploited for prostitution. A large number of internally displaced persons (IDPs), especially women, are also vulnerable to trafficking. False job offers and high recruitment fees by illegal labor agents entrap Pakistanis into sex trafficking and bonded labor.

4. Gender inequalities and disparities in Pakistan are the added causes of women trafficking and exploitation. With many families favoring sons, daughters are viewed as an economic burden; early marriages and traditional dowry practices also augment the financial burden, forcing parents to sell their daughters.

5. Due to lack of political will, Pakistan is yet to sign and ratify the trafficking protocol to prevent, suppress, and punish trafficking in persons, which provides a better and broader theme for preventing trafficking, prosecuting traffickers, and protecting victims. Despite trafficking being a sensitive and critical issue, the absence of any standardized methodology for collecting and analyzing data hampers efforts to get reliable information on human trafficking. According to the US State Department Trafficking in Persons Report of 2013, victims of sex trafficking in Pakistan were often charged with crimes, while their traffickers remained free.

6. The ALRC has been vocal on the issue and has been documenting and intervening in cases of human trafficking especially that of women and young children. In 2014, the ALRC reported on the case of a 16-year-old girl, Tahira Batool, who was abducted by human traffickers and was later sold for Rs 80,000 to a brothel owner. The culprits were arrested and later released without any further action being taken against him and his accomplices. A year after her abduction, Tahira was presented in court along with her abductor, who claimed to be her husband. The court thereafter quashed the case against the culprit. Many trafficked girls suffer a similar fate, their abductor producing a fake marriage certificate in court whereby the court declares them as lawfully wedded husband and wife, and then the girl is repeatedly sold to one buyer after another and the vicious cycle of torture and slavery continues.

7. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires States to take appropriate measures to suppress all forms of trafficking in women and exploitation of prostitution of women. General recommendation No. 19 identifies trafficking as a form of violence against women because it puts women at special risk of violence and abuse. Pakistan passed the Prevention and Control of Human Trafficking Ordinance (PCHTO) in 2002 to specifically address the protection of human trafficking victims. The ordinance imposes a punishment of imprisonment up to 10 years, and a fine on anyone who *"Purchases, sells, harbors, transports, provides, detains, or obtains a child or a woman through coercion, kidnapping or abduction, or by giving or receiving any benefit for trafficking the child or woman into or out of Pakistan for the purpose of exploitative entertainment."* The law is intrinsically flawed as it does not penalize internal trafficking and does not provide an adequate mechanism for preventing human trafficking from taking place. There is little clarity in the law and it is a dire need of time to address

different types of trafficking differently, as each has its own particular dimensions which are too complex to be treated under a single, broad term.

8. Victims once captured by the authorities are re-victimised by the judicial processes, many of them being officially detained with underlying offences related to their trafficking, such as prostitution and violation of immigration rules. Despite the enactment of the ordinance and the provisions of Articles 3 and 11 in the Constitution of Pakistan, the government has not shown progress in addressing human trafficking. Pakistan's former Supreme Court Chief Justice, in Criminal Review Petition No. 47/ 2015 stated the "alarming lack of diligence on the part of the Government in relation to immigration into Pakistan, emigration from Pakistan, human trafficking and smuggling. Although there are a number of statutes dealing with these matters, it became apparent that these statutes are mere words on paper as the same are not implemented."

9. Prosecution and investigations are often faulty and do not differentiate between smuggling and trafficking. Female victims of trafficking, in particular, often find themselves prosecuted under Hudood laws. In Pakistan, forced prostitution is most likely to be treated as tantamount to adultery, as the threshold of burden of proof is very difficult to meet and with the public social psyche having zero tolerance for prostitutes, there is little protection or safeguards to guarantee a free and fair trial.

10. According to the Pakistani Federal Investigation Agency (FIA)'s Red Book, the majority of the human traffickers belong to Punjab Province, particularly from Gujrat and Gujranwala cities. The most common routes used by traffickers go through the Balochistan Province. However, the FIA official's complicity in human trafficking remains a significant problem. Many human traffickers are backed by influential landlords and politicians and often collude with government officials to hide the crime.

11. In light of the above, the ALRC urges the Human Rights Council to urge the Pakistani government to:

- a. Treat trafficked person as victims instead of criminals and that they be dealt with accordingly in the law. UN trafficking protocol Article 3 should be enacted at the local level whereby consent of the victim is irrelevant if coercion or deception is used to lure him or her into trafficking.
 - b. Rehabilitate and relocate the victim of human trafficking, especially women and children, to ensure their integration into society. The victims must be provided with a safe and secure environment to protect them from traffickers and other abusers.
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