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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.

[13 February 2017]

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

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Pakistan: Government betrays the pledges for criminalizing torture

The Asian Legal Resource Centre (ALRC) would like to draw the attention of the UN Human Rights Council to the issue of the continual rise in cases of custodial torture in Pakistan. In a country where human rights are disposable propositions to be sacrificed at the altar of national security and interest in torture is a useful tool to shock and awe a repressed populace. The persistent rise, in trends of extra-judicial killings, custodial torture, enforced disappearances, and arbitrary arrests by the State, speak volumes about the state of human rights in the country.

The State routinely indulges in torture and ill-treatment with complete impunity, although it is a signatory to UNCAT and other international conventions. Despite torture and ill-treatment being extremely rampant, the State denies all involvement. It maintains the false stance that the victim is lying to absolve himself of criminal charges. The courts, especially the lower judiciary, are particularly susceptible in allowing erring officers of law enforcement agencies to go scot free, in cases of allegation of torture.

Sadly, torture in custody is not reserved to law enforcement agencies. Judges, too, are reportedly engaging in it within the confines of their homes. Recently her employers, an Additional Sessions judge and his wife tortured a 10-year-old child working as a household domestic; the girl was severely injured about the head and lower body. The judge used his influence and position to settle the case out of court, with the child's father. Due to considerable social media attention, the case caused an up roar. The Chief Justice of Pakistan had to take suo motto cognizance of the torture and wrongful confinement of the girl. The Institute of Social Justice reported 29 child domestic helper deaths from torture between 2011 and 2015. The figure is a sad reminder of the prevalence of torture in the country. By failing to punish the culprits, the State is normalizing this behavior, further eroding the moral fabric of society.

Even school children are not spared from violence and torture. For reasons unknown, a 9th grade male student of Cadet College in Larkana Sindh Province, was viciously tortured by his teacher. The brutal beating left the student paralyzed. To date the student has not received any compensation from the government. No action has been taken against the culprit.

Death in custody is a common occurrence inside a jail. Sindh Parliamentary Affairs Minister Nisar Ahmad Khuhro recently informed the Sindh assembly that as many as 104 prisoners have died in different Sindh jails in the past three years. The high number of deaths is attributed to natural causes. However, the fact remains that the inhuman conditions prevalent inside Pakistani jails is tantamount to torture, causing inmates to die in large numbers. Karachi Sindh Province Central Prison is notorious for the torture and ill-treatment of their inmates. In 2016, some forty Muttaida Qoumi Movement (MQM) workers were beaten up in the Central Prison in Karachi by para-military forces in order to extract 'favorable' statements from them.

The Reputation Institute in its annual RepTrak Index ranked Pakistan in the list of countries with the worst reputations. Pakistan was ranked as the third worst country in terms of international repute, intolerance, religious extremism, and poor foreign relations followed by Iran and Iraq.

Despite its obligations under UNCAT, to enact an Anti-torture law, the Pakistani government has been dragging its feet in promulgating such an Act. The AHRC has been very vocal on the conspicuous absence of the law and has been lobbying for its enactment for some time. Due to the lack of political will, the Bill has not received presidential consent. The Bill against custodial torture has been pending before the National Assembly since 2015. Despite a two-thirds majority, the ruling party, PML-N, has resisted putting the Bill up for discussion. It is said that the security establishment does not want to pass an Anti-torture law. Although the Senate has passed the Bill, it cannot be implemented until both houses pass it.

The LEA officials deem themselves above the law and one routinely finds extreme cases of torture in custody. In a case reported by the AHRC in its Urgent Appeals 03-4-2016, two generations of a family from Punjab Province suffered the wrath of police officials. The crime of the family--they dared to use their civil rights. They complained against police

atrocities, torture and failure to retrieve hundreds of thousands of extorted monies from police officials. As a result, the officers threaten that they will be killed in encounters. They want them to withdraw their complaints from the High Court in Lahore, and from other authorities including the Anti-Corruption Directorate.

Throwing the notion of civilized governance on a back burner, the State is pro-actively coming down hard on all dissenters. Not even social media activists and bloggers are safe anymore. The recent spate of enforced disappearances of five, left-wing activists has sent a wave of terror across the country. Not even those supporting these activists on social media and micro-blogging sites are spared. On 17 January 2017 a student of the University in Lahore, Punjab Province was tortured. He was confined for over three hours by activists of a religious-political student union for tweeting for the safe recovery of the missing bloggers.

Torture is a systematic tool of oppression in the country where fundamental rights are a luxury. They are afforded only to those who fall on the right side of the State. Religious and ethnic minorities are overlooked when it comes to ensuring equality of citizenry. The Punjab police are notorious for their ill-treatment of detainees belonging to religious minorities. Many death-row inmates have accused police of extracting a confession through third degree torture. Torture is the norm that is the beginning and the end of the judicial process in Pakistan. It causes a travesty and miscarriage of justice. In extreme cases it causes the deaths of innocent persons, like Ghulam Brother, who by the admission of the Court, were hanged despite their pending appeals.

Police custody, legal custody by the State, should constitutionally and ideally be the safest place for individuals. Yet, for the citizens of Pakistan, it is a most dangerous place. Deprived of all their constitutional rights, the alleged accused is at the mercy of his captors. Political interests and personal vendettas often make use of the police to subdue opponents. Their purpose in torturing is not only to obtain information, but to inculcate fear.

Police excesses and torture are not a new phenomenon in urban or remote regions of the country. A relatively peaceful and serene Chalat Bala District, Nagar Gilgit Baltistan region, has been chaotic since the setting up of the Chalat Police station. Instead of maintaining peace and order, the police officers have reportedly been extorting bribes from local residents. It is the sad reality. Using an archaic colonial system of policing, police stations have become bastions of crime and criminals. A region, which had been peaceful, becomes crime-infested as soon as a police station is there. Harsh incidents of police torture are still a rarity but the trend is increasing. Baba Jan, a prominent frontline activist from Gilgit Baltistan had been tortured continuously for two years while in Gilgit Baltistan police custody. The AHRC has raised the issue of torture in several Urgent Appeals (AHRC-UAC-070-2012 and AHRC-UAU-026-2014).

In the light of the above, the ALRC urges the Human Rights Council to push the Pakistani government to:

- a) Urgently promulgate and implement a Torture Act in accordance with the UNCAT.
- b) If torture is proved, the perpetrator must be relieved of duty, reprimanded and punished.
- c) The enquiry commission for such incidents should be an independent body comprised of senior police officers, civilians and ex-victims.
- d) The State must be exhorted to take stern action against erring police officers for exceeding their authority and torturing innocent men and women.
- e) The State must establish and implement accountability and a checks and balance system to ensure, that incidents of police excess do not occur. Investigations and prosecutions of crimes must be conducted under the aegis of the rule of law.