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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.

[22 August 2013]

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

Pakistan: Government must commute death sentences and protect the people's right to life

1. The new Pakistani government under the Pakistan Muslim League –Nawaz, is moving into office in September and is set to commence killing death row inmates within the next week, despite pleas by the international community to stay the death penalty. 400 inmates are set to be executed by the end of 2013. Critics of the PML-N fear that re-instituting the death penalty is the government's attempt toward Islamization.

2. A temporary stay on the hangings was announced on, August 18 in response to protests from outgoing President Asif Ali Zardari and various international human rights organizations. The stay is set to last until Zardari returns to Pakistan and can discuss the matter with Prime Minister Nawaz Sharif. The Pakistani Taliban have also threatened retaliation should any of their members be executed.

3. The newly elected Pakistan Muslim League-N reiterated that their refusal to renew the moratorium comes in an alleged effort to curb crime and terrorism, especially in crime-ridden urban centers such as Karachi and conflict areas along the Northern border with Afghanistan. It seems that regional terrorism is merely a pretense for the Pakistani government to reign in control on domestic policies and politics. Killing convicts, even innocent ones, gives a show that they have control over terrorism that they have little power to control and too often condone.

4. Corruption and impunity plague the Pakistani police force, preventing honest and equitable investigations and prosecutions. How can Pakistan sentence its' own people to death when it cannot even guarantee them a fair trial?

5. Since its' independence, Pakistan has increasingly incorporated Shari'a law (the fundamentalist Islamic law) into its common law system and increased the scope of crimes for which one can be put to death, including blasphemy against Islam. A better focus area for Pakistan's new government is the rampant impunity for Islamic terrorists.

6. It is vital that the international community and the United Nations work together to put pressure on the Pakistani government to formally abolish the death penalty. Questions have emerged concerning the legitimacy of the judicial system that has been awarding these death penalties.

7. Despite over 150 countries officially abolishing the death penalty, Pakistan continues to hold on to this archaic form of punishment. Although re-implementing the death penalty comes in alleged response to heightened crime and terrorism, studies have yet to be done to conclusively prove that capital punishment is a deterrent for violent crime. There is no easy way to address the devastatingly high crime rates in the country- but the government killing its' own citizens is not the answer. A more productive approach would address issues within the government, including corruption, impunity, and bribery.

8. In 2010, Pakistan ratified the International Covenant on Civil and Political Rights; Article 6 (1) of which states: *Every human being has the inherent right to life. This right shall be protected by law....*” Yet, twenty seven different crimes still qualify one for the death penalty under Pakistani Law. These include treason, terrorism, apostasy, and adultery. The most common crimes receiving the death penalty are terrorism, murder, and aggravated murder.

9. Pakistan is now holding over 8300 death row inmates in its prisons, and 300 more are sentenced yearly. The pressure of the death penalty stay has also affected the mental health of these prisoners, many of whom have been waiting for years in limbo to know their fate. Frequently, prisoners are given a date for their hanging, only for it to be cancelled in the days leading. A number of these prisoners have committed suicide, the pressure of pending death being too much to handle.

10. In March of 2011, the Asian Human Rights Commission (AHRC), a sister organization of Asian Legal Resource Centre (ALRC), reported on ‘the saga of the prisoners waiting in death row’, and stated that although the number of death row inmates increased from 5447 in 2005 to 8300 today, prison capacity has not been increased to hold them, leaving them to subsist in inhuman and inadequate living conditions.

11. Poor living conditions and the corrupt monopoly run by the prison guards only serve to increase recidivism and criminal behavior, even within the jails themselves. Networks of criminal gangs operate in and outside of the prisons, as exemplified by the most recent storming of Dera Ismail Khan Jail in Punjab province. The Taliban conducted a four hour raid on the jail, freeing 248 and killing 13, including some Shiite prisoners. Of the freed prisoners, 6 were on death row. Even if the death sentence had been carried out on these 6 prisoners, it is unlikely that the Taliban’s jail raid would have been prevented. Rather, the bold raid proves how ineffective the death penalty is when dealing with terrorism.

12. Journalists have been repeatedly denied access to these jails. The prisons and judiciary claim that they deny the media because of journalists’ requests to access the most dangerous criminals. However, with Pakistan jails over capacity by 35,000 people, it is not in the best interest of the government to allow journalists to document the substandard living conditions¹.

13. Military courts have continued to try and sentence offenders independently from the country’s judicial courts, exempting themselves from the moratorium. Mohammed Hussain was an army soldier, sentenced to death in 2009 for murdering one of his colleagues. His appeal for mercy to the Chief of Army Staff was denied, his death approved by President Asif Ali Zardari, and he was hanged on November 15, 2012.

14. It is counter-intuitive that the Pakistani government would reinstate the death penalty, a criminal sentence which many in the first world criticize as ‘cruel and unusual’, as a means through which to deter crime. Pakistan has verbally committed to the United Nations to stop all executions, but has yet to make good on this promise. It is unreasonable to reinstitute the death penalty in absence of a judiciary and police force that is able to effectively carry out criminal investigations.

15. Services and materials provided to the Pakistani police force are inadequate and outdated. Training and investigative procedures need to be modernized. Within the prisons themselves, salaries are low and advancement is a slow process. This leads to corruption in the prison security and police force.

16. The practice of ‘blood money’, or ‘*diyat*’, continues in Pakistan. In cases of murder, the criminal can be forgiven and the death penalty removed if the family of the victim comes to an agreement with the criminal on a sum of money to be paid as recompense for the loss of the family member. This practice puts a price on human life and serves to ensure that murders with money will walk free. The poor, being unable to pay, will receive no amnesty and likely be sentenced to death.

17. What is clear is that Pakistan’s new leaders are eager to assert themselves as diplomatically and militarily stable. They are attempting to put on a competent face in combating insurgency and crime. Reinstating the death penalty does the exact opposite.

18. Many of the criminal activities and terrorism that the Pakistani government is hopeful to stop comes from believers of a radical sect of Islam that promotes the idea that through suicide bombing, one can reach salvation. For followers of such devout, if misguided, faith, it is not plausible to believe that the mere threat of death penalty could be a deterrent.

19. Furthermore, ending the moratorium on the death penalty shows the international community that Pakistan continues to devalue human life.

20. Many of the death row inmates claim that they were prosecuted and sentenced for crimes that either they didn’t commit or were forced to commit through coercion or threat. In one such case, Muhammed Junaid claims that his father was sentenced to death after

being set up for a fake murder by his brother, whom desired to take the family land. Muhammed's father has been in the prison system for 25 years since his sentencing in 1986. It remains to be seen whether he will be one of the victims to the new policy regarding capital punishment.

21. The volatile nature of the government is a further reason the Pakistan government should abolish the death penalty. Former Prime Minister Zulfikar Ali Bhutto, founder of the former ruling Pakistan People's Party, pledged to abolish the death penalty but failed to do so. He was later hung on accusations of murdering an opposition party member's father.

22. The most considerable fact remains: as long as death sentencing continues, innocent people will be killed. Pakistan, especially, with its' challenges regarding crime and corruption, is at risk of murdering numbers of innocent people, all in the name of saving face on an international platform.

23. The Asian Legal Resource Centre (ALRC) strongly urges the Pakistani government to immediately reconsider its' position on the death penalty and make moves to protect the Pakistani people's right to life. This urging is in light of knowledge that the death penalty in Pakistan does little to prevent crime and Pakistan's flawed justice system will ensure the murder of innocent people.

24. The first victims of the renewed capital punishment policy are sentenced to be hung on August 20-22 of 2013, signifying that immediate action is required. The international community must put pressure on the Pakistani government to change its policies without delay and prevent unnecessary loss of human life.

25. Due to the information above, The ALRC urges the Pakistani government to undertake the following actions:

- Protect Pakistani citizens' right to life by re-implementing the moratorium on all pending death penalty cases in both civilian and military courts.
- Formally abolish the death penalty for all crimes under the Pakistan Penal Code (PPC).
- Respect the rights of prisoners by addressing the overcrowding and poor conditions within the prison system.
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights regarding capital punishment.
- Repeal the Qisas and Diyat Ordinance of 1990 in order to abolish the practice of 'Diyat', or 'blood money' in exchange for amnesty for crimes, which only serves to perpetuate an unbalanced justice system.

¹ http://sapandssrp.com/attachments/File/Prison_reforms.pdf