

# **Pakistan: A missing State - “enforced disappearances and custodial killings are rampant”**

Monday 15 December 2014, by [MEMON Naseer](#) (Date first published: 14 December 2014).

**The dismal image of the country on human rights front merits drastic overhaul by implementing international convention on missing persons.**

Human Rights Commission of Pakistan (HRCP) has once again pleaded the government of Pakistan to ratify “international convention for the protection of all persons from enforced disappearance”, and shun the barbaric practice of enforced disappearances and killings of compatriots.

Recent torrent of abduction and killing of political workers has once again brought Pakistan in the limelight.

HRCP and other civil society organisations have criticised the government and the law enforcement agencies for perpetrating these crimes against citizens.

The convention that was adopted by the on December 20, 2006 and entered into force on December 23, 2010, explicitly says no one shall be subjected to enforced disappearance. It also trashes stereotype excuses by succinctly saying “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.”

The convention also demands the states shall guarantee the relatives or the victims’ counsel have access to the responsible authorities. It also seeks a commitment to disclose the whereabouts of persons deprived of liberty, including, in the event of a transfer to another place.

So far, 94 states have signed the convention and 43 have ratified it. Pitiably, the United States and United Kingdom refused to sign the convention on flimsy grounds. India is the only country in SAARC region that has signed the aforementioned convention but not yet ratified. Pakistan is also among the countries that have not yet signed the convention to eschew a cardinal international commitment. Before that, the General Assembly of the United Nations also adopted declaration on the protection of all persons from enforced disappearance in its resolution 47/133 of December 18, 1992.

South Asian countries have a gruesome track record of trampling movements for political rights, often dubbing them as insurgencies. While some of the movements pronounce armed struggle as a strategy to achieve their goals, the peaceful ones are not spared either.

At times, atrocious means adopted by law enforcement agencies compel peaceful political movements to violent recourse. It happens in countries with fragile democracies, where the state apparatus adopts repressive than saner political options.

Dismemberment of Pakistan in 1973, series of uprisings in Balochistan, unremitting conflict in Kashmir, suppressed Tamil insurgency in Sri Lanka are some of the regional examples to mention.

Pakistan is among the countries that have not yet signed the convention to protect its citizens from enforced disappearances. However, the country is signatory to some other instruments that forbid such crimes to be committed by a state against its citizens.

A delegation of the United Nations working group on enforced or involuntary disappearances visited Pakistan in September 2012. During the visit, the working group received information on cases of enforced disappearances and studied the measures adopted by the state to prevent enforced disappearances. The figures communicated to the group ranged from less than a hundred to thousands. Pakistan's own constitution guarantees the right to fair trial. Article 10-A says, "in any criminal charge against him a person shall be entitled to a fair trial and due process." Law enforcement agencies, however, violate such clauses of constitution on the pretext of protecting an incognito national interest. During the past 10 years, parts of the country have witnessed incessant disappearances and killings at the hands of both state and non-state actors.

The report of the group highlighted the plight of tormented families who were threatened; that if they did file a case, their loved ones will be harmed, or another member of their family would be abducted. Similarly, witnesses and lawyers supporting the victims were threatened with dire consequences.

While enforced disappearances and custodial killings are rampant, the state response in Pakistan has been inadequate. Only cosmetic measures have been taken to mollify the enraged human rights bodies.

In April 2008, former law minister, Farooq Naik, stated that the government was collecting details of disappeared persons and promised that all would be released. In April 2010, the Interior Ministry set up a committee to investigate the fate of the disappeared persons. In March 2011, the Supreme Court decided to institute a specific body to deal with cases of enforced disappearances.

In May 2012, the statute of the National Commission on Human Rights (NCHR) and a National Human Rights Institution (NHRI) was also adopted by the Parliament. Notifications of these committees are gathering dust in official shelves and no findings have been made public.

Unabated abductions and killings of political workers spread to Sindh too. Courts were made repeated requests to produce the missing persons. They at times accused state actors to be involved in such incidents. But they were responded to with dumping of mutilated bodies.

The law enforcement agencies always denied these charges. The overall futility of the law and justice structure is evident from the fact that in spite of thousands of disappearances and genocidal killings on ethnic and sectarian grounds, hardly any felons has been convicted.

The UN working group reported with alarm that impunity is dangerously corrosive to the rule of law in Pakistan. The report quoting some officials mentioned that criminals, terrorists or militants from armed groups enjoyed a great impunity because, even when investigations were initiated against them, they managed to get out of them, by using threats against the police, the judges or witnesses. There were hints that this might explain why some law enforcement or intelligence agents might have resorted to illegal practices such as enforced disappearances.

Apathy and indifference of successive governments is starkly evident. Responding a question on recent incidents of extrajudicial killings in Sindh, a federal minister callously remarked that it is a provincial matter whereas the chief minister of Sindh stood aloof by saying that nationalists are

politicising dead bodies. This cavalier attitude of the government would only rub salt on the wounds of victims.

Article 13(1) of the “UN declaration on the protection of all persons from enforced disappearance” provides that whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to a competent and independent State authority for investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation. Hence the State cannot be absolved of its responsibility to protect lives of citizens even if its law enforcement arms pretend their innocence.

The country ranked fourth on the human rights risk index ought to adopt serious strategies to repair its image. Immune to all kinds of ignominies, the government rather embarked on a retrogressive “Protection of Pakistan Act” that actually extends a license for extrajudicial killings and illegal detentions. Such scruffy laws are likely to be used as brinkmanship tool against movements for political rights particularly in Sindh and Balochistan, where cold blooded murders are frequently committed. These laws are certainly not intended to curb terrorism in the country where banned faith-based elements with dubious trajectory freely operate, sometimes under official patronage.

At the moment when the anti-terrorism law was being promulgated, the government was imploring terrorist outfits for talks. It sufficiently unmask the real design behind such legislative masterpieces.

An anemic image of the country on the human rights front merits drastic overhaul. A most pertinent step would be to ratify and implement international convention for the protection of all persons from enforced disappearance. Missing persons signify nothing but a missing state.

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\* The News on Sunday The News, Political Economy section, 14<sup>th</sup> Dec 2014:

<http://tns.thenews.com.pk/human-rights-case-of-missing-persons/#.VI7iit5Zf4d>