

Pakistan: Disappearances: a festering sore

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THE latest (for November 2020) monthly press release of the Commission of Inquiry on Enforced Disappearances offers us sufficient information to show that enforced disappearances should continue to attract the attention of the government and civil society as one of the topmost matters of concern to them.

The document tells us that complaints of enforced disappearances continue to be received by the commission as 23 such complaints were received during November 2020, and that with the addition of these cases the total number of cases referred to the commission has risen to 6,854. Of these cases, the total number disposed of till Nov 30, 2020, was 4,782 and the balance of cases carried forward is 2,072.

The break-up of the 34 cases disposed of during November this year is as follows: 13 cases were deleted as they could not be treated as instances of enforced disappearance or complete addresses were not available. Out of the 21 persons traced during the month of November, 10 returned home, four were found at internment centres, another four were found in jails, while three of them had died.

The commission was candid enough to report that five complainants from Swat and one from Lower Dir withdrew their cases from the commission and the common entry about them says: "The case has been closed as the complainant has withdrawn his complaint [of] his free will to avail some other remedy for redressal of his grievance." Such an admission of some aggrieved persons' lack of confidence in the commission is quite rare in the annals of the government.

The commission is apparently not interested in finding out who picked up the victims and why.

Some of the stories of persons that have been traced are quite interesting as well. Take the following case: Ahmad Said Khan belonging to a village in Buner District was reported missing in December 2014. The account of his having been traced is as follows: "Ahmad Said entered appearance before the Commission, whose statement was recorded on oath, in which he deposed that he surrendered himself to Pak Army and after keeping him in detention for five months they handed him over to police. Thereafter he remained in detention in Dagar jail for about one year and in the meanwhile his case remained under trial in Anti-terrorism Court at Swat which acquitted him. Now he was at home and earning his livelihood."

Is it actually possible to gloss over this tale of unmitigated suffering? Investigations in some other cases have yielded identical findings.

The case of Muhammad Ejaz belonging to Kurram District, who was reported to have disappeared in April 2013, is also worth noting. The entry about him says: "MI Directorate report dated 30.7.2020 indicates that Muhammad Ejaz s/o Abdul Khaliq is interned in the Internment Centre, Laki Marwat. Abdul Razzaq, uncle of the traced person, was present before the Commission and apprised of the status of the case. No further action is required. The case is closed."

How can anyone assume that the case is closed? In fact, the case begins at this point. The man disappeared in 2013 and his fate is being reported in July 2020. What happened to him during the intervening seven years? When was he taken to the internment centre and why? The case cannot be arbitrarily closed. For what was he picked up and was he given a fair trial? It bears repeating that, instead of the case being closed, it actually starts at this point.

Let us look at the case of Ammar Abbas from a village in Muzaffarabad District, who had disappeared in October 2017. The entry about him says: "Focal person of MI appeared before the Commission who submitted report dated 17.11.2020 which states that Ammar Abbas is interned in the Internment Centre, Fizaghat. No further action is required. Family will be facilitated to see him subject to prescribed procedure." There is no indication as to when Ammar Abbas was admitted into the internment centre.

These accounts fully expose the extremely limited nature of the inquiry commission's activities. This commission is apparently not interested in finding out who had picked up the victims and why. Why did the commission not investigate the actions of the authorities that were involved? Is the commission unaware of the Supreme Court ruling that statements of all persons who are released or recovered should be recorded so that those guilty of depriving innocent citizens of liberty could be prosecuted?

It was in view of the uselessness of the commission that United Nations experts and domestic observers had asked the government not to extend the term of the commission when it expired a few months ago, but the government did not heed the advice. The commission does not have a fulltime chairperson, and retired justice Javed Iqbal, who heads the National Accountability Bureau, is unfairly burdened with the additional responsibility of looking after the commission.

What the government must do to deal with the issue of enforced disappearances has been pointed out on numerous occasions. First of all, Pakistan must ratify the UN Convention on the Protection of All Persons from Enforced Disappearance. Causing an enforced disappearance must be made a penal offence, and those responsible for any enforced disappearance must be prosecuted. In 2014, a bill to criminalise enforced disappearance was tabled in the National Assembly but was not taken up by the PTI government. As has been pointed on several occasions, the government may bring in its own bill if it did not like the previous government's draft.

The state should also coordinate its work on the subject with the UN Working Group on Enforced Disappearances. Unfortunately, when this group visited Pakistan a few years ago, the authorities here declined to meet them except for the then chief justice Tassaduq Hussain Jilani. This attitude must change.

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