

[ALRC Statement] PAKISTAN: Council urged to act as thousands remain forcibly disappeared

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PAKISTAN: Council urged to act as thousands remain forcibly disappeared

In recent years, the Human Rights Council's predecessor, the Commission on Human Rights, placed Nepal at the top of the list of perpetrators of forced disappearances. Following interventions and the establishment of a field office of the Office of the High Commissioner for Human Rights in the country, disappearances have dropped significantly. Information received by the Asian Legal Resource Centre indicates that large numbers of forced disappearances are now taking place in Pakistan. Will the Human Rights Council, which is supposed to be an improvement on the Commission on Human Rights, also take appropriate action concerning disappearances in Pakistan, or will it disappoint?

Enforced disappearances of persons by the State have increased in Pakistan since the military government took power in 1999, with the situation becoming worse in the aftermath of the 9/11 incident in the United States, under the auspices of the so-called war on terror. The government of Pakistan has acted without restraint in arresting people, often arbitrarily, and detaining them incommunicado or disappearing them for months on end. Many such persons either remain disappeared or are found dead on the road-side.

It is very difficult to ascertain accurate numbers of disappeared people in the country - non-governmental organizations face huge risks in carrying out such work - but around 300 cases are before the country's various courts, in majority the Supreme Court of Pakistan. After action taken by Pakistan's judiciary, the military government has been pressured into releasing some of the disappeared who were being detained by the military intelligence agencies. However, it is claimed by different political and religious organizations that more than 4000 persons still remain disappeared.

In 2002, up to one hundred students, political workers and human rights activists, mainly from the province of Balochistan, disappeared following arrest. Up to a year later, around half of them had been released, but reported having been subjected to severe torture in military camps in Quetta, the capital of Balochistan, and Dera Ghazi Khan, bordering Punjab province. Before General Musharraf came to power there were far fewer reported cases of disappearance of political workers and human rights activists. However, these days, the practices of arbitrary arrest, incommunicado detention, torture and forced disappearance are increasingly being reported.

Forced disappearances in Pakistan for the most part occur in the southern provinces of Balochistan and Sindh. Disappearances began in Balochistan before 9/11, as the government began constructing cantonment areas in very sensitive and poor areas to curb resistance from Balochi nationalists. After 9/11 the government has continued using disappearance to crush opposition groups under the guise of the war on terror and have unfortunately received backing from some powerful sections of the international community. The Human Rights Council must take action to rectify this.

Disappearances of religious extremists also followed in areas bordering Afghanistan, such as South and North Waziristan. On December 5, 2005, the Interior Minister told the national Assembly that the government had arrested 4,000 persons in Southern Balochistan since 2005. No list of their identities has yet been provided by the government and since then very few of them have been produced before court. It is currently impossible to ascertain the number of people that have disappeared in counter-terrorism operations, particularly since 2005, because of the secrecy surrounding such operations and the likelihood that the families of some of the disappeared do not publicize their cases for fear of retaliation.

The Pakistani authorities have presented figures suggesting that more than 1,000 alleged terrorist have been arrested since 2001 by its law-enforcement agencies. However, only a fraction of these cases have been dealt with through the legal system. Hundreds of suspects are thought to have been handed over to the United States, often for sizeable bounties, and many of these are being detained in Guantanamo. These acts of wrongful extradition constitute violations of the Extradition Act, 1972, which provides detailed procedures for the extradition of suspects, including the holding of

an enquiry by a judicial magistrate.

In Pakistan, the civil and military intelligence agencies, which include the Intelligence Bureau (IB), Federal Investigation Agency (FIA), Inter Service Intelligence (ISI) and Military Intelligence (MI) play a significant role in the disappearances. Military intelligence agencies use military cantonments in the country's major cities, including Karachi, Rawalpindi, Quetta, Lahore and Peshawar, to detain persons incommunicado, torture them and subsequently potentially forcibly disappear them. These have been described in detail by persons who were released from them alive.

Pakistan's Supreme Court has received some 240 cases of disappearances, of which 105 people have been released according to the government. They were detained in military torture cells. Until action by the country's higher courts in the last few months, the government would systematically deny holding such persons.

At present, the whereabouts of thousands of people remain unknown. Please find a list of some of the identities of the disappeared in a report by the Human Rights Commission of Pakistan at:
http://pakistan.ahrchk.net/pdf/Disapp_PHRC.pdf

Pakistan has not ratified or signed the International Covenant on Civil and Political Rights but is a member of the UN Human Rights Council, and as such should desist from perpetrating gross violations of human rights and ratify this and all other major international human rights instruments.

The high level of disappearances taking place in Pakistan must become a matter of major concern for the international community, as has been the case in Nepal and elsewhere in the past. Pakistan ranks amongst the worst perpetrators of disappearances in the world and yet continues to be a vocal member of the Human Rights Council. If Pakistan wishes to continue playing a role at the international level it must act in good faith, put a halt to torture, disappearances and illegal extraditions, and collaborate with the Human Rights Council, notably by inviting the Working Group on Enforced or Involuntary Disappearances to conduct a visit to the country. Pakistan should also immediately locate the whereabouts of all reported disappeared persons and launch investigations into their disappearances and any related allegations of torture or extra-judicial killings. The country must also ratify the International Convention for the Protection of All Persons from Enforced Disappearance and enact a law criminalizing forced disappearance. Any persons found to be responsible for carrying out such human rights abuses must receive a fair trial before a civilian court and receive adequate punishment, in line with international standards, and adequate reparation must be provided to the victims or their relatives.

Any failure by the Human Rights Council to act in a swift, appropriate and effective manner concerning the situation of disappearances and the range of associated grave human rights violations currently being perpetrated in Pakistan, will have a negative impact on the credibility of the Council as a whole. The Council needs to meet the challenges it faces early in its existence if it is to become a success.

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About ALRC: *The Asian Legal Resource Centre is an independent regional non-governmental organisation holding general consultative status with the Economic and Social Council of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at local and national levels throughout Asia.*

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