

November 2007

UA 304/07 **Legal concern/ enforced disappearance/ fear of torture and ill-treatment**

PAKISTAN **At least 485 victims of enforced disappearance**

Up to 485 victims of enforced disappearance were due to have their cases heard by the Pakistan Supreme Court on 13 November. Following General Musharraf's declaration of the state of emergency in Pakistan on 3 November, the former Chief Justice and other senior judges were summarily dismissed, leaving the Supreme Court in disarray. As a result, all hearings of cases of enforced disappearance due to be heard by the court are currently suspended. The fate and whereabouts of those whose cases were due to be heard today, as well as hundreds of others who have gone missing, remain unknown. They are at serious risk of torture and other ill treatment.

The vast majority of these individuals, some of whom have been labelled terrorists or threats to national security, have not been charged with any crime and are thought to be held arbitrarily, incommunicado and secretly in undisclosed locations, or to have been unlawfully transferred to the custody of other governments, including the USA. The figure of 485 represents a fraction of those actually believed to have been subjected to enforced disappearance since the start of the "war on terror" six years ago. The clandestine nature of the "war on terror" makes it impossible to know exactly how many enforced disappearances there have been, but Amnesty International believes that since 2001 the figure is over 2,000.

The Supreme Court had been taking a tough stance on enforced disappearances, demanding that the government and intelligence services produce the missing people before the court. The Supreme Court had worked from a list provided by the Human Rights Commission of Pakistan and the Defence of Human Rights group, which was formed by families of the disappeared.

In early November, the Supreme Court consolidated the cases involving enforced disappearances before it and adjourned the hearing until 13 November. On this date, the court was due to hear the government's progress in cross checking the lists of those reported as "disappeared" into government custody and produce the individuals before the court. Chief Justice Iftikhar Choudhry, who has now been dismissed and is currently under undeclared house arrest, had previously stated that there was "irrefutable proof that the missing persons are in the custody of secret agencies," and stated that the Supreme Court would initiate legal proceedings against those held responsible.

In previous hearings, Pakistan's Attorney General Malik Quyyam stated that up to 181 of the cases on the Supreme Court's list had been "traced" and that efforts were underway to locate the others. At a hearing on 29 October, Deputy Attorney General Nahida Mahboob Elahi submitted an updated list of 186 people thought to have disappeared. Newspaper reports suggest that a number of people have been released but it is unknown whether this includes any of those on this updated list.

On 11 November, the government of Pakistan amended the Army Act 1952, granting military courts the power to try civilians that are suspected of a range of offences including "terrorist" activities, treason or sedition, for acts dating back to 2003. Effectively, this puts into further jeopardy the fate of the disappeared and their right to see justice.

BACKGROUND INFORMATION

Pakistan's involvement in the US-led "war on terror" has been characterized by widespread violations of human rights. Mass arrests of terror suspects – often for bounties of thousands of dollars – have led to detainees being taken away to the US detention facility at Guantánamo Bay in Cuba, transferred to secret CIA detention centres, unlawfully transferred to other countries or held in arbitrary and often secret detention in Pakistan itself. Many – if not most – of these individuals have been tortured or otherwise ill-treated.

Enforced disappearance rarely occurred in Pakistan before to 2001. Since then, while primarily used against alleged terror suspects, the practice has also been used against other perceived political opponents, including Baloch and Sindh nationalists and journalists.

International human rights law prohibits enforced disappearances strictly and in all circumstances. Enforced disappearances constitute, among other things, violations of the right to liberty and security of the person, the right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment, the right of all persons deprived of liberty to challenge lawfulness of their detention and to be treated with humanity and with respect for the

inherent dignity of the human person, and violates or constitutes a grave threat to the right to life. In certain circumstances, enforced disappearances constitute crimes against humanity. Enforced disappearances can also amount to ill-treatment of relatives and friends of the "disappeared" person in that the uncertainty about their fate and whereabouts, directly resulting from the authorities' deliberate denial of information, can cause extreme distress and fear.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Urdu, Pashtu, English or your own language:

- calling on the authorities to immediately disclose the fate and whereabouts of the individuals included in the lists before the Supreme Court, and all other victims of enforced disappearance in Pakistan, to their family members;
- calling on the authorities to immediately reinstate the Supreme Court, as previously constituted before the state of emergency, including in order to hear the cases involving enforced disappearance;
- calling on the authorities to immediately abandon the practice of enforced disappearance and ensure that all those detained in Pakistan are either released, unless they are promptly charged and fairly tried for recognisably criminal offence and remanded by an independent court, in which case they should have access to lawyers, family visits, medical personnel and independent courts;
- calling on the authorities to immediately repeal the amendment to the Army Act 1952 which allow civilians to be tried by military courts

APPEALS TO:

General Pervez Musharraf

Pakistan Secretariat, Islamabad, Pakistan

Fax: +92 51 9221422

E-mail: via website: <http://www.presidentofpakistan.gov.pk/WTPresidentMessage.aspx>

Salutation: Dear General Musharraf

Mr Aftab Ahmed Khan Sherpao

Minister for the Interior

Ministry for the Interior

Room 404, 4th Floor, Block R, Federal Secretariat, Islamabad, Pakistan

Fax: +92 51 9202624

E-mail: minister@interior.gov.pk

secretary@interior.gov

Salutation: Dear Minister

Mr Zahid Hamid

Minister of Law, Justice and Human Rights

Room 305, S-Block, Pakistan Secretariat, Islamabad, Pakistan

Fax: +92 51 9202628/ +92 51 9201631

E-Mail: minister@molaw.gov.pk

Salutation: Dear Minister

COPIES TO: diplomatic representatives of Pakistan accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 25 December 2007.
