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Pakistan: The disappeared of Balochistan

“No person shall be deprived of life or liberty save in accordance with law” – Article 9, Constitution of the Islamic Republic of Pakistan

Enforced disappearances targeting students, activists, journalists and human rights defenders continue relentlessly in Pakistan’s southwestern province of Balochistan. People are wrenched away from their loved ones by state officials or others acting on their behalf, placing them outside the protection of the law. The authorities then deny the person is in their custody or refuse to say where they are. Families of the disappeared are plunged into a state of anguish, trying to keep the flame of hope alive while fearing the worst. Many have been in this limbo for years.

The disappeared are at risk of torture and even death. If they are released, the physical and psychological scars endure. If they are killed, the family never recovers from their loss. Disappearances are a tool of terror that strikes not just individuals or families, but entire societies. This is why they are a crime under international law, and if committed as part of a widespread or systematic attack directed against a civilian population, they constitute a crime against humanity¹.

Enforced disappearances violate several human rights², including: the right to recognition as a person before the law; the right to liberty and security of the person; the right not to be subjected to torture and other ill-treatment; the right to life, when a disappeared person is killed; the right to an identity; the right to a fair trial; the right to an effective remedy; and the right to know the truth regarding the circumstances of a disappearance. Enforced disappearances are also a “continuous violation”, with the violation occurring and continuing until the whereabouts of the disappeared person have been established³.

In a 2014 ruling⁴, Pakistan’s Supreme Court noted that while Pakistan has not ratified the

¹ Article 7, Rome Statute of the International Criminal Court

² ‘Enforced or Involuntary Disappearances’, Office of the United Nations High Commissioner for Human Rights, Fact Sheet No. 6/Rev.3 <https://www.ohchr.org/Documents/Publications/FactSheet6Rev3.pdf>

³ Article 8, International Convention for the Protection of All Persons from Enforced Disappearance

⁴ Supreme Court of Pakistan, PLD 2014 Supreme Court 305, Human Rights Case No. 29388-K of 2013

International Convention for the Protection of All Persons from Enforced Disappearance, “the Supreme Court could apply the Convention in order to achieve the ends of justice”. “Enforced disappearances of persons,” the Supreme Court added, “was a crime against humanity and clearly violative of Art. 10 of the Constitution, which provided direct protection from such disappearances.”

They are also a violation of the family’s rights. Most of the people disappeared in Pakistan are men, and often the sole breadwinners of the family. Disappearances violate the family’s economic and social rights⁵, including: the right to protection and assistance to the family; the right to an adequate standard of living; the right to health; and the right to education, where children are unable to continue their schooling after the disappearance of a parent.

Families are often forced to adopt political roles as they have to start making appearances in the public eye, as part of their desperate campaigns to be reunited with their loved ones. They have to learn the workings of a complex criminal justice system, which also does not offer them much legal recourse, as the practice of enforced disappearances is still not criminalized in Pakistan.

The United Nations (UN) Working Group on Enforced or Involuntary Disappearances also recognizes that “women and girls are victims of enforced disappearance as disappeared persons, as relatives of someone who has disappeared or as any other person suffering harm as a result of an enforced disappearances are lived and faced in different ways by women and girls due to gender roles, which are deeply embedded in history, tradition, religion and culture.”⁶

WGEID has, until the end of 2019, 731 unresolved allegations of enforced disappearances from Pakistan.⁷ According to the monthly progress report from October 2020, Pakistan’s Commission of Inquiry on Enforced Disappearances, received 23 new cases in August 2020, raising the total number of cases received since March 2011 to 6,752.⁸

Dr Deen Mohammad

Dr Deen Mohammad was forcibly disappeared on 28 June 2009, the day after his daughter had surgery.⁹ His wife, daughters and son have been campaigning for his return for over 11

⁵ International Covenant on Economic, Social and Cultural Rights

⁶ General comment on women affected by enforced disappearances / adopted by the Working Group on Enforced or Involuntary Disappearances at its 98th session, 31 October - <https://digitallibrary.un.org/record/768006?ln=en> 9 November 2012 p3

⁷ Entrenching Impunity, Denying Redress: The Commission of Inquiry on Enforced Disappearances in Pakistan A Briefing Paper, International Commission of Jurists <https://www.icj.org/pakistan-commission-of-inquiry-on-enforced-disappearances-has-failed-in-providing-justice-to-victims/> August 2020 p 4

⁸ See monthly progress report available on the official website of Commission of Inquiry on Enforced Disappearances: <http://coioed.pk/>

⁹ See *The Struggle for My Missing Father* <http://balochwarna.com/2019/03/20/my-struggle-for-my-missing-father/>

years, knocking on the doors of the police, courts, media, human rights organizations and even the United Nations. Despite repeated promises from judges and political leaders of his imminent return, there has been no movement in his case. They have not heard from him and fear the worst. Their ongoing and prolonged suffering caused by not knowing the fate of their father has broken the family emotionally and financially. They protest regularly and are harassed for it. His daughter Sammi Baloch, who was only 10 years old when her father was abducted, also participated in the 3,000 km long march organized by the Voice of Missing Baloch Persons. They have also lost their home.¹⁰

Dr Mohammad's wife suffers from various ailments and her children devote their already extremely limited/depleted resources to her healthcare. Sammi says their whole lives have been spent trying to secure the return of their father. In an essay for Dawn.com, she wrote, "*I don't know why my father was picked up, but I have always said: if he has done anything illegal, then present him in a court of law and deliver his punishment after a trial. Consider him, and us, equal citizens and use the same law that applies to all other citizens. Don't make him disappear like this. Don't torture us.*"¹¹

Zahid Baloch

Zahid Baloch, Chairman of the Baloch Student Organization-Azad (BSOA) was abducted in Quetta on 18 March 2014.¹² His family still do not know where he is or what has happened to him. Witnesses claim that he was taken at gunpoint. BSOA is a student organization that advocates the separation of the province of Balochistan from the state of Pakistan. It was banned by the Pakistani government in March 2013 because they claimed it was "involved in terrorism."¹³ In an interview with the BBC, six months before his disappearance, Zahid insisted that his group engaged in a non-violent struggle for self-determination.¹⁴

Shabbir Baloch

Shabbir was 24 when he was disappeared on 4 October 2016.¹⁵ His wife and him were staying with friends when members of the Pakistani army, dressed in uniform and armed, entered and besieged their home between 5:00 and 6:00 am. He was blindfolded, had his

20 March 2019

¹⁰ See *The Long Wait* <https://www.dawn.com/news/1565705> 28 June 2020

¹¹ Ibid

¹² Amnesty International Urgent Action *Abducted Political Activist at Risk of Death* <https://www.amnesty.org/en/documents/ASA33/008/2014/en/> AI Index: ASA33.008.2014, 19 May 2014

¹³ Ibid

¹⁴ See *Missing Balochistan student leader Zahid Baloch insists group is peaceful* <https://www.bbc.com/news/av/world-asia-27474419> 20 May 2014

¹⁵ Amnesty International Urgent Action *Student Leaders Fate and Whereabouts Unknown* <https://www.amnesty.org/download/Documents/ASA3349712016ENGLISH.pdf> AI Index: ASA33.4971.2016, 11 October 2016

hands tied and was taken away. The family alleges that the police refused to file a complaint about his disappearance.¹⁶ Shabbir, like Zahid, also worked for BSOA as their Information Secretary.¹⁷

Hani Gul and Mohammed Naseem Baloch

Hani Gul and Mohammed Naseem were engaged to be married when they were both forcibly abducted from Karachi in April 2019.¹⁸ Both hail from Gwadar in Balochistan. Hani was a student at a medical university at the time of her abduction. Hani describes being tortured during her three-month disappearance/detention and alleges that the one time she saw her fiancé, he looked like he had been physically assaulted.¹⁹

Hani was released in August 2019. Mohammed remains in detention. No one has been held to account for her abduction. Since she was returned, Hani has been expelled from her university and alleges that this is a consequence of her disappearance.²⁰

Hassan Qambrani

Hassan Qambrani left his house to get groceries on 14 February 2020 and never returned.²¹ His family kept waiting for him to get in touch, delaying dinner and leaving messages when their neighbor told them that they had seen Hassan being taken away in a police van. This was days after he participated in a sit-in protest against enforced disappearances in Quetta.

Unfortunately, Hassan's disappearance is not the first for the family. The mutilated bodies of his elder brothers were found in 2016.²² In a bid to do whatever they can to save Hassan from the same fate, his sister Haseeba and mother have been campaigning desperately for

¹⁶ Ibid

¹⁷ Ibid

¹⁸ See *Gwadar: Student along with her fiance forcefully disappeared, tortured, harassed* <https://thebalochistanpost.net/2019/09/gwadar-student-along-with-her-fiance-forcefully-disappeared-tortured-harassed/> 17 September 2019

¹⁹ Ibid

²⁰ See *Hamdard Medical University expelled Hani Gul after her disappearance* <https://thebalochistanpost.net/2019/09/hamdard-medical-university-expelled-hani-gul-after-her-disappearance/> 22 September 2019

²¹ See *One family's torment showcases a region's suffering* <https://gandhara.rferl.org/a/one-family-s-torment-showcases-a-region-suffering/30791736.html> 19 August 2020

²² Ibid

his return. In a speech that Haseeba made at a protest, she said, “We don’t celebrate but just mourn. We don’t know what else to do. Just have mercy and return our brothers.”²³

Rashid Hussain Brohi

Rashid Hussain Brohi is a 24-year-old Pakistani, of Baloch ethnicity, from the city of Shahdadt in Sindh province. While in Pakistan he had been an activist in the Baloch National Movement.²⁴ A few of Rashid’s family members and some fellow activists were abducted and murdered under unexplained circumstances, following which Rashid moved to the United Arab Emirates out of fear for his life in 2017.

However, on the morning of 26 December 2018, Rashid Hussain was commuting with three colleagues to his workplace when Emirati security forces detained him.²⁵

On 22 June 2019, Emirati authorities forcibly returned Rashid Brohi to Noshki, Balochistan.²⁶ Media reports stated that he was arrested immediately upon his return.²⁷

Since Rashid was sent back, he has not been produced in any court or provided access to his family or lawyer. On 16 April 2020, despite news reports of Rashid being in the custody of Pakistani authorities, an anti-terrorism court in Pakistan declared Rashid a fugitive, implying that they no longer have him in their custody. Amnesty International has not been able to verify this through court documentation but if true, this is cause for serious alarm as that means his whereabouts remain unknown – which can provide the state cover should the worst happen to him.

In a letter to Amnesty International on 23 June 2020, Rashid’s mother wrote, “*Since Rashid’s extradition to Pakistan, I am on protest [sic] in different cities of Pakistan. I have been to all courts of Pakistan and hired lawyers to defend him if there are any charges against him [sic]. No one heard my sorrow, and no one has any explanations to my questions.*”

Pakistan’s international human rights obligations

The [International Convention for the Protection of All Persons from Enforced Disappearance](#) came into effect in 2010. It aims to prevent enforced disappearances,

²³ See *State’s Missing Agreement with Citizens* <https://www.bbc.com/urdu/pakistan-52974984> 9 June 2020

²⁴ Amnesty International Urgent Action *Baloch Activist Held Incommunicado* <https://www.amnesty.org/en/documents/mde25/9880/2019/en/> AI Index Number MDE 25/9880/2019 20 February 2019

²⁵ Ibid

²⁶ According to deportation documents available with Amnesty International

²⁷ See *Prime suspect in Chinese consulate attack arrested* <https://dunyanews.tv/en/Pakistan/498663-Prime-suspect-in-Chinese-consulate-attack-arrested> 3 July 2019

uncover the truth when they do happen and make sure survivors and victims' families receive justice, truth and reparation.

Implementation of the Convention is monitored by the Committee on Enforced Disappearances (CED). At the time of ratifying or acceding to the Convention, or even later, a state may declare that it recognizes the competence of CED to receive and consider communications from or on behalf of victims or other states parties. The CED also provides authoritative interpretations of the Convention.

Pakistan has neither signed nor ratified the Convention, even as it accepted the recommendation to make enforced disappearance a criminal offence at its 2017 Universal Periodic Review. The government has also not accepted recommendations to bring the perpetrators of such abductions to justice.

As a recently re-elected member of the UN Human Rights Council, Pakistan has an obligation to “uphold the highest standards in the promotion and protection of human rights”²⁸ – to not just acknowledge violations but take concrete steps to end impunity for them.

In March 2011, the Pakistani government constituted the Commission of Inquiry into Enforced Disappearances with a mandate to “trace the whereabouts of allegedly enforced disappeared persons” and “fix responsibility on individuals or organizations responsible.” While it may have tracked down some cases, the whereabouts and fates of a significant proportions of the cases still remains unknown. The Commission has also been criticized for many failures²⁹, including adopting a flawed definition of enforced disappearance, using a limited scope of inquiry, providing inadequate protection to victims and witnesses, and failing to hold the perpetrators accountable.

Not a single person in Pakistan has been held accountable for enforced disappearances. There is no provision in the law that enables families to claim any reparations for their ordeal.

Recommendations

Amnesty International calls on the Pakistani authorities to:

- Ensure that all measures are taken to immediately end the practice of enforced disappearance

²⁸ UN General Assembly Resolution 60/251

²⁹ International Commission of Jurists, “Entrenching Impunity, Denying Redress: The Commission of Inquiry on Enforced Disappearances in Pakistan”, September 2020 <https://www.ici.org/wp-content/uploads/2020/09/Pakistan-Commission-of-Inquiry-Advocacy-Analysis-Brief-2020-ENG.pdf>

- Immediately disclose the fate or whereabouts of victims of enforced disappearance to their families
- Either immediately release the victims of enforced disappearance or ensure that they are brought promptly before a judge in a civilian court to rule on the lawfulness of their arrest or detention and whether they should be released
- If people continue to be detained, ensure that they are charged with an internationally recognizable offence and that their rights, including to a fair trial are fully respected
- Consult civil society and families of the disappeared on the draft bill to criminalize enforced disappearance and ensure that the offence is defined in accordance with international law and standards
- Ratify and implement into national law the International Convention for Protection of All Persons from Enforced Disappearance, including making declarations, pursuant to Articles 31 and 32 of the Convention, recognizing the competence of the Committee on Enforced Disappearance to receive and consider communications from individuals and states parties
- Ensure that all allegations of enforced disappearance are promptly, thoroughly, effectively, independently and impartially investigated and, where sufficient admissible evidence exists, prosecute those suspected of criminal conduct irrespective of their rank and status or the security agency they are affiliated with through fair trials
- Ensure that the victim families are free to associate with groups working on resolving the issue of enforced disappearances and to peacefully protest in public with fear of reprisal
- Ensure all victims, including family members are provided with full and effective reparation to address the harm that they have suffered