

General Allegation

131st session (18-27 September 2023)

Pakistan

The Working Group received information from credible sources concerning reported obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance ('the Declaration') in Pakistan.

1. The Working Group received information that the cases of enforced disappearance officially registered by the Ministry of Interior and its *Commission of Inquiry on Enforced Disappearance* (COIED) from 2011 amounted to 8701.
2. The Working Group noted with concern that the names published in full on the website are not those of the disappeared persons, but rather those of relatives and/or persons who reported the disappearance. This choice raises security and privacy concerns, as it may expose these persons to reprisals and harassment, as well as attempts of extortion.
3. Amidst increasing cases of reported enforced disappearances perpetrated by, or with the participation of, the police, military, intelligence agencies, and paramilitary forces, new legislative measures have been introduced by the Government, allegedly compounding this situation. It is reported that these measures, which were introduced recently without adequate consultation with the relevant stakeholders, and through a fast-track process, could violate several provisions contained in the Declaration.
4. In this regard, the **Official Secrets (Amendment) Bill, 2023**,¹ adds new and vague provisions to the Official Secrets Act of 1923, which may provide security and intelligence agencies with unfettered powers to enter a place or search a person by force, if necessary; and to seize any items deemed susceptible or evidentiary of the commission of a crime under the Act.
5. Moreover, amendments to the **Pakistan Army Act of 1952** adopted by the National Assembly in August 2023 reportedly add greater punishment for any person, military or civilian, revealing information about military personnel. Such involvement of the military in civilian matters could violate the right of victims to justice, in contravention with the State's obligation to ensure that victims have the right to complain before a competent judicial authority and the corresponding judicial process to be undertaken by competent ordinary courts. Similarly, this raises concern with regard to the prohibition of the adoption of measures that might have the effect of exempting persons accused of enforced disappearance from any criminal proceedings or sanction.

¹ [Official Secrets \(Amendment\) Act 2023](#)

6. The Working Group also registered the concerns of reliable sources regarding the exclusion of all relevant stakeholders – including families, human rights organizations, or lawyers who act on their behalf – from meaningful consultations on legislative developments. Language is reportedly another barrier to genuine participation, as the majority of the families of disappeared persons attempting to register their complaints have difficulties with the English language, which is the primary medium of communication in State institutions.
7. According to the sources, from 2006 to 2022, there was a high number of enforced disappearances in Pakistan concerning ethnic minorities in Pakistan, including Baloch, Pashtoon, Punjabi, and Sindhi. The information received by the Working Group indicated the following number of victims of enforced disappearances: 711 from Punjab, 188 from Sindh, and 79 from Balochistan, mostly among members of the opposition political activists, journalists, and human rights defenders.
8. Additionally, the sources highlighted a climate of impunity and ineffectiveness in providing remedies, as authorities may not be sufficiently dedicated to investigating cases of enforced disappearance and holding perpetrators accountable, especially in the provinces of Sindh and Balochistan. The information received also shows the lack of effective measures to guarantee the non-recurrence of enforced disappearance.
9. The Working Group was also informed that, during a demonstration in Lahore in May 2023, several women and political activists were arrested. According to the sources, 19 women were initially detained, and, subsequently, 14 of them were released, while the fate and whereabouts of five of them are still unknown and they have not been presented in court or before any competent authority.
10. Furthermore, the Working Group received a number of reports concerning cases of threats, reprisals, and harassment against families of disappeared persons and human rights defenders, including civil society organizations and lawyers who work on issues related to enforced disappearance.

The Working Group would like to bring to the Government's attention the following provisions of the Declaration, which are directly related to the present allegations:

Article 2

- 1. No State shall practice, permit or tolerate enforced disappearances.*
- 2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.*

Article 3

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 7

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 10

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.

3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 16

[...]

2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.

Article 18

1. Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

[...]

Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

The Working Group would be grateful for your Excellency's Government's cooperation and observations on the following questions:

1. Please provide any information or comment that your Excellency's Government may have on the abovementioned allegations.
2. Please provide information on investigations, search activities, and judicial processes initiated by the COIED and the outcome thereon. Please also provide information on the witness protection program available as well as other relevant measures to protect victims and witnesses in the context of the work of COIED.
3. Please provide information on any measures taken to ensure that the right to privacy of relatives of disappeared and persons with a legitimate interest in participating in official

investigations and search activities is protected in consonance with article 13 of the Declaration.

4. Please provide detailed information on how the Official Secrets (Amendment) Bill 2023 and the amendments to the Pakistan Army Act of 1954 would align to your Excellency's Government obligation pursuant to international law and, in particular, articles 13, 16 and 18 of the Declaration.
5. Please provide detailed information on the guarantees in place to prevent enforced disappearances in the context of manifestations and protests. Moreover, kindly provide details on the measures taken to search for the five human rights defenders reportedly disappeared in the context of the manifestations that took place in Lahore in May 2023.
6. Please provide information on how your Excellency's Government ensures the civil and political rights of ethnic minorities, particularly with regard to the right to life and the prevention of enforced disappearance.

The Working Group requests your Excellency's Government to provide a response to the above questions within sixty days. The text of the general allegation will be published along with the Working Group's post-sessional report and on its website, where also any response received by your Excellency's Government will be uploaded.

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