

**Name of the Organisation: Defence of Human Rights**

**Country: Pakistan**

**Contributions for a thematic study by the Working Group on Enforced or Involuntary Disappearances on “Elections and Enforced Disappearances”**

*25th Feb 2024*

**Introduction**

Enforced disappearance is a tactic that has been used to suppress dissent for decades. The 1992 Declaration lays out “three cumulative minimum elements” that should form the basis of any definition of enforced disappearance, including:

- Deprivation of liberty (whether otherwise legal or illegal) against the will of the person concerned.
- Involvement of government officials, at least indirectly by acquiescence.
- Refusal to disclose the fate and whereabouts of the person concerned.

**Origin and Background of Enforced Disappearances**

The practice first originated during the Nazi Era when individuals were picked up by the Nazi army without following the due process requirements as mandated by the law. The systematic state policy, known as the “*Nacht und Nebel Erlass (Night and Fog)*” policy was used to suppress resistance in colonized Europe and to create a ‘chilling effect’ amongst the general public, by putting people outside the protection of law, to prevent such dissent in the future.

However, the practice did not end with the downfall of Nazi Germany. It has continued across the globe, particularly in dictatorial regimes such as in the 60s and 70s in Chile and Argentina.

The practice is used by states for political engineering, suppressing resistance, and to control the masses. Thousands of people are abducted by the state or state-sponsored agents and their whereabouts remain unknown, or their detention is denied altogether. The victims of enforced disappearances are subject to extrajudicial killing and torture. They are denied access to their family members or legal representation, and may spend decades or the rest of their lives in secret detention centers.

**Contextualisation of Enforced Disappearances in Pakistan: History and Background**

Enforced disappearances is an issue in Pakistan that has been around for decades. Governed by an implicit military rule, Pakistan is a state where enforced disappearances are used as a tactic to eliminate sources of dissent and for political engineering.

Historically, the practice of enforced disappearances has taken many forms in Pakistan. While there are reports that enforced disappearance has been perpetrated since at least the 1970s, such cases have been recorded in significant numbers in the early 2000s, beginning with Pakistan's involvement in the US-led 'war on terror' in late 2001. Since then, hundreds of people suspected to be related to terrorism, or labeled as enemy combatant by the USA have reportedly 'disappeared' after being abducted by security agencies and detained in secret facilities. Musharraf the ex president of Pakistan writes in his book *In the Line of Fire* that the CIA has received bounties of dollars from the Government of Pakistan for handing over citizens to the US and Nato Forces.

Cases of enforced disappearances are also reported in large numbers in Balochistan, where the practice is used against political activists, human rights defenders and people who are considered 'sympathetic' to separatist or nationalist movements in the province, as well as in Sindh, where political activists have largely been targeted. (<https://www.dawn.com/news/1783811> )

### **Nexus Between Enforced Disappearances and Elections: Political Engineering in Pakistan**

Despite being a democratic republic, Pakistan military's intervention in political affairs of the country has always been significant. The following sections below determine the extent of influence of military officials in Pakistan's elections, as well as resort to electoral violence and enforced disappearances by state agents in order to influence elections.

**Who are the victims of enforced disappearances in the context of elections? If possible, provide examples.**

Victims of enforced disappearances in the context of elections in Pakistan include, but are not limited to **contesting candidates, politicians and their families, party workers and supporters, as well as journalists and activists**. Elections in Pakistan have always been marred with electoral violence and enforced disappearances are used as one of the last resorts of political engineering.

The following case studies list enforced disappearances that have occurred in the context of elections and highlight professional capacity of the victims.

## 2024 Elections

Pakistan conducted one of the most controversial elections in the country's history on 8th February, 2024. Months leading to the elections were marred with political instability, violence, attempts to remove certain political figures from politics by selectively applying disqualification provisions and corruption laws, carrying out raids in the homes of electoral candidates, and alleged efforts to dismantle a popular political party, *Pakistan Tehrik-e-Insaaf (PTI)*.

### **Enforced Disappearances of *Politicians and Electoral Candidates***

The 2024 General Elections are termed as one of the most controversial ones in Pakistan's political history. These elections were conducted after being delayed twice. The following cases fit the criteria of an enforced disappearance, as there was an involvement of state agencies, deprivation of liberty, and at times, refusal to disclose the whereabouts of concerned individuals.

- Sadaqat Ali Abbasi, former member of parliament, went missing on September 1, 2023.
- Usman Dar, a renowned political figure and former adviser to Imran Khan, went missing on September 10, 2023. A retired senior official from the armed forces claimed that Usman Dar was not 'disappeared' but was arrested against a warrant. However, he has not been produced before a magistrate, as mandated by the law in any arrest.
- Similarly, Abdul Kareem Khan, a PTI electoral candidate; Awais Younus, Secretary Information; Farrukh Habib, former Minister of State; and Sheikh Rasheed, a key aide to Khan, were all subject to enforced disappearance in September 2023.

In Sindh province, 45 PTI-backed independent candidates reported house raids in weeks leading to the general elections. Among these candidates, some were also arrested or abducted by state agencies, as mentioned below:

- Iqbal Arain, Khalid Khanzada Bhai, and Dr. Amir were arrested by paramilitary forces 4-5 days before the elections. Hasnain Qaimkhani and Farhan Hashmi were arrested by paramilitary forces, and after 3 days of enforced disappearance, they were handed over to the Police, who then lodged an allegedly false criminal report against them. Junaid suffered the same fate after being disappeared for 10 days approximately one month before the elections. Another electoral candidate, Kabir, was abducted by state agencies and remained missing for 8 days before an official criminal report was filed against him, two weeks before the general elections.

- Nisar Ahmed Panhwar and his son, Mohsin Nisar Pahnwar were arrested by counter-terrorism department forces in a house raid one month before the elections. They submitted their election candidacy documents the very next day they were subjected to enforced disappearance. They returned home after 43 days and the elections were already conducted by that time.
- Muhammad Arif, Naila Yousaf, Sadia Ghouri, Shoaib Akhter, and Waleed Farough had their homes raided by paramilitary rangers and police. Since these candidates were absent from their homes during the raids, their brothers were arrested. Another electoral candidate, Erum Anees, had her home raided by rangers and her brother-in-law was arrested during the raid, as she was not present.
- Muhammad Tehseen Abbasi was arrested from his office 3 days before the general elections, was brutally tortured, and released.
- Amir, Danish, and Deen Muhammad, electoral candidates contesting for the provincial assembly were arrested on the same day, two weeks before the elections, and released after three days. Altaf Hussain Mengal was also arrested from his home by paramilitary rangers one day before the elections.

### **Enforced Disappearances of *Party Supporters and Party Workers***

Supporters and workers of a particular party have always been subjected to extrajudicial crackdowns and enforced disappearances in an event of disagreement with the establishment or when there is a perceived threat against the state. This dynamic was depicted in the 2024 elections as well as in the past.

- In the election rallies held before the 2024 elections, dozens of PTI supporters and workers were arrested for unlawful assembly. It was reported by Zayad Kiani, a PTI-backed candidate, that he brought out a rally in Dheri Hasanabad, but people were '*picked up*' by police from election offices of the PTI candidates.
- Additionally, in Muzaffargarh, cases were registered against PTI candidate, Nawabzada Muhammad Ahmad Khan, along with 12 identified and 25 unidentified PTI supporters in different police stations on Monday. (<https://www.dawn.com/news/1809641/pti-candidates-workers-face-cases-arrests-after-sunday-rallies-in-punjab> )
- An independent election candidate Rehab Zeb was shot dead in the Siddiqabad area of Khyber Pakhtunkhwa's Bajaur district on 31st Jan, 2024. The incident comes a day after four people were killed while six were wounded in a bomb blast at a PTI rally in

Balochistan's Sibi. Rehan Zeb Khan was canvassing in the area when unidentified armed men opened fire on his vehicle. The cop said Rehan was taken to the District Headquarters Hospital where he succumbed to his wounds. According to the SHO, four other people were also injured in the attack.

(<https://pakobserver.net/pti-supported-candidate-rehan-zeb-shot-dead-during-election-campaign-in-kp/>)

In another instance, the state agencies cracked down on a popular political party Altaf Hussain Led Muttahida Qaumi Movement (MQM) after the immense growth of the party in Karachi, ultimately impacting their participation in the electoral process. Concerned by the party's involvement in acts of violence, the state agencies began allegedly abducting MQM workers, supporters, and party leaders.

- Altaf Hussain led MQM-London workers were subjected to extrajudicial killing in South Africa multiple times. Examples include Majeed Manjeela, killed in 2018 and Qamar Tedy, killed in 2019. In 2021, Salman Noorudein, said to be an MQM worker, was allegedly picked up by law enforcement personnel on February 3. His nephew was also detained along with him but was later freed. Salman's body was found dumped in Karachi's Shah Latif Town the following day. The body reportedly showed severe torture marks. Additionally, in April 2021, dead bodies of two MQM workers with torture marks were found after they went missing for a month. (<https://www.dawn.com/news/1229062> )

### **Enforced Disappearances of *Activists and Journalists* in the Context of Elections**

Enforced disappearances of activists and journalists that are known for criticizing state policies or involvement of state agencies in the electoral and democratic process is a common practice.

For instance, Imran Riaz Khan, a renowned journalist and activist known for his strong speech against the state agencies, has been arrested multiple times from 2022-2024. His arrests include charges of "*hate speech*" and making "*violence-inducing statements*" aimed at creating "*a rift between the general public and the state institutions*".

The death of Arshad Sharif, a Pakistani journalist, in Kenya on October 23, 2022, indeed sparked controversy and speculation surrounding the circumstances of his demise. The Kenyan police initially described it as a case of "mistaken identity," but there were suspicions, especially on social media, suggesting that he might have been targeted because of being outspoken against the Pakistani establishment and his affiliations with ex- PM Imran Khan.

[\(https://tribune.com.pk/story/2383245/senior-journalist-arshad-sharif-shot-dead-in-kenya-confirms-wife/\)](https://tribune.com.pk/story/2383245/senior-journalist-arshad-sharif-shot-dead-in-kenya-confirms-wife/)

In the aftermath of May 9th riots, he was arrested on 11th May, 2023 from Sialkot Airport. He was subsequently released, but was abducted from outside prison by 4-5 unidentified men. Furthermore, it has been reported that he was arrested again on 22nd February, 2024, from outside his home following the elections conducted on February 8th and formation of the new government. It is important to note that he actively produced international media reports that showcased rigging of the 2024 general elections. (<https://www.dawn.com/news/1753691> )

### **What is the rationale for committing enforced disappearances in the context of elections?**

Primary rationale for committing enforced disappearances in the context of elections is to prevent a particular party from winning the elections and to ensure that a political party that forms a part of the establishment gains a majority. Enforced disappearances committed before the elections are said to be the most blatant form of pre-poll rigging since arbitrary arrests and abductions of electoral candidates and party workers and supporters compromise the integrity of elections and overall structure of democracy.

For instance, prior to the 2024 elections, the Election Commission of Pakistan (ECP) rendered for PTI's electoral symbol to be nullified prior to the elections, preventing them from contesting in the elections as a party with a recognized symbol. In an effort to counter this decision, the PTI decided to contest the elections with their supported independent candidates with different symbols. It was alleged that the party's chair was enforced disappeared for a short period, following which he announced that there will not be a coalition with the PTI.

As such, it is clear that enforced disappearances in the context of elections are conducted to exclude a particular party from the democratic process.

### **What are the consequences of electoral violence? More specifically, how does the occurrence of electoral violence - including enforced disappearance – impact peoples ' perception of the electoral process and their willingness to participate in future elections?**

The primary consequence of electoral violence is the loss of faith in the electoral process, which is prevalent in Pakistan due to voting participation of only 47.9% of the eligible population. Hopelessness in the electoral system is widespread in Balochistan, where there is a growing resistance against the state due to increased practices of enforced disappearance in the province.

It is widely believed in Balochistan that only those candidates that are in the good books of state agencies will win the elections.

Electoral violence leads to two primary consequences:

- i) Indiscriminate enforced disappearances and extrajudicial killings by state agencies in response to these attacks, in order to punish anyone suspected of being involved. In the state's efforts to counter the attack, individuals are allegedly abducted without any formal charges or being put to trial.
- ii) Loss of faith in the electoral process and fear amongst the masses.

This situation leads to a complete breakdown of the democratic electoral process, as people refrain from voting, or they believe that their vote does not count, since the winning candidates have already been 'selected'.

**Is there any particular phase of the electoral cycle when enforced disappearances are more likely to occur? Do enforced disappearances committed prior, during or after the elections have different purposes?**

Most enforced disappearances happen a month before the elections. This is done to intimidate and coerce electoral candidates to change their political alignment, to comply with the state's political strategy, and to prevent candidates from contesting. Enforced disappearances are also carried out after elections for the same reason. For example, winning candidates of PTI, Aslam Ghumman and Ahmar Rashid Bhatti were abducted.

**Provide examples of legislation that has facilitated the practice of enforced disappearance in the context of elections.**

With reference to Pakistan's legislations, the following are used to facilitate the practice of enforced disappearance:

The *Pakistan Army Act (PAA)* was granted an extension in jurisdiction to conduct trials of civilians in military courts. Such trials are not transparent and open to the public. The Peshawar High Court on separate occasions also set aside the convictions of at least 270 people tried by the military courts on terrorism-related charges, terming the proceedings "*based on malice of facts and law*". It is also important to note that under the PAA, the civilian courts do not have the right to hear appeals against judgments awarded by the military courts. The superior judiciary can, however, review the sentences awarded by the military courts, as has been witnessed in several cases since. (<https://www.dawn.com/news/1753472> )

Section 3 of *The West Pakistan Maintenance of Public Order Ordinance, 1960* provides for preventative detention of an individual suspected of acting in a manner 'prejudicial to public safety' or 'maintenance of public order'. It also provides that, " *The Government, if satisfied that for the aforesaid reasons it is necessary to do so, may, extend from time to time the period of such detention, for a period not exceeding six months at a time.*

Anti-Terrorism Act is commonly misused and in fact formed to legalize illegal activities of the establishments, a tool to detain individuals to deprive them of liberty. Section 6 of the Anti-Terrorism Act is the cornerstone of the statute and provides that:

***In this Act. "terrorism" means the use or threat of action where:***

*(a) The action falls with the meaning of sub-section (2). and,*

*(b) The use or threat is designed to coerce and intimidate or overawe the Government or the public or a section of the public or community or sect or create a sense of fear or insecurity in society; or*

*(c) The use or threat is made for the purpose of advancing a religious, sectarian or ethnic cause.*

**What has been the role of the judiciary in safeguarding the rights of victims of enforced disappearances in the context of elections? Provide any examples of lack of judicial independence as well as attacks to judicial actors as a consequence of their work in this specific context.**

Judicial independence plays a crucial role in preventing enforced disappearances in the context of elections. However, the lack of judicial independence in Pakistan in all matters related to elections has been evident throughout history, particularly in the 2024 General Elections. This lack of judicial independence also extended to the judicial failure to safeguard individuals from enforced disappearances in the context of elections. Enforced disappearances in the context of elections are treated similar to any other disappearance in Pakistan. The legal process typically involves filing a petition before the high court.

In most cases, disappearances in the context of elections are short-term, so the aggrieved parties typically return within a few days, usually when the purpose of disappearance is deemed to be fulfilled. However, in some cases, they remain missing for weeks or months, even when habeas corpus petitions have been filed. For instance, Nisar Panhwar, an electoral candidate who was abducted approximately a month before elections, shortly after his nomination papers were accepted, returned home after missing for 43 days. This situation persisted despite the filing of petitions by his family and directives of Sindh High Court to the respondents to file their remarks before the court.



Lack of judicial independence in the matter of enforced disappearances was evident in the case of *Muhammad Shah Case (PLD 2014 Supreme Court 3045)*. The Supreme Court of Pakistan was unwilling to hold any agencies responsible for missing persons and exercised restraint on commenting on the matter by stating that “*in view of longstanding practice and knowing the consequences because such action by the Court is likely to affect not only the persons who are directly or indirectly involved.*”

**What measures could be put in place to prevent or reduce the risks as well as address the practice of enforced disappearances, including so-called “short-term” enforced disappearances in the electoral context?**

The list of possible causes of electoral violence is long. At the most basic level, electoral violence is employed to either coercively maintain or achieve power, including to “to enforce patriarchal control of democratic institutions” (Bardall 2018).

Enforced disappearances within the framework of electoral processes are executed to secure electoral advantages and undermine the integrity of the election procedures. To mitigate these acts, the government must institute comprehensive transparency measures within the Election Commission (ECP).

Furthermore, the armed forces, rangers, police, and similar entities must actively contribute to maintaining peace and security during elections, while refraining from acting under undue influence from the establishment or the caretaker government. These entities must operate independently; ensuring their role in safeguarding the electoral process is not compromised by external pressures.

Enforced disappearances must be taken seriously by the state and recognized as a heinous crime. The Commission of Inquiry on Enforced Disappearances (COIED) must have a separate cell or department to deal with such cases due to their unique nature and to speed up the process of their outstanding legal cases.

**Please share any good practices and tools, including early warning mechanisms that can be used to address electoral violence, including enforced disappearances.**

There are usually two types of electoral violence. These include:

- State-backed violence which includes intimidation, harassment and arresting anyone associated with specific political affiliations.
- Inter-Party violence.

**State-backed electoral violence**

A common example of state-backed electoral violence is intimidation of party members (any party the state is against. <https://twitter.com/KhurumSherZaman/status/1756430189389545713>

“Police are about to enter my house. Chief Justice Sahab woke up. My kids and wife are at home.”

Tweeted by Khurram Sher Zaman of Pakistan Tehreek-e-Insaf (PTI).

As of 2024, there have been 51 raids and or arrests of candidates in January and February 2024.

A cycle of state-backed electoral violence has been established where a political party member (usually PTI) is abducted by unknown persons. After a few days/weeks/months, the person is returned. Then the person dissociates themselves publicly through a video message or a press conference from their political party and denounces the 9th May (2023) violence.

Such as Barrister Abdullah Mumtaz Kahloon, who was set to contest for PP-76 from Sargodha. He was abducted by unknown persons. Later that night a video of him emerged on social media in which he stated that he was with his friends. He also disassociated himself from PTI.

Another example is PTI leader Usman Dar who was abducted on 9th September, 2023 by people in plain clothes who came in cars without any license plates. After a few days, he appeared on a news channel and announced his disassociation from PTI.

<https://www.dawn.com/news/1804807>

### **Inter-Party electoral violence**

Preventing interparty violence is essential. Political party members/workers should not be allowed to carry weapons during election week.

The Election Monitoring Control Center (EMCC) that comes under the ECP must be transparent. Though it claims to be transparent, a third-party organization should deem it transparent.

**Connect with us:**

**Defence of Human Rights Pakistan**

**Office no. 24, 3rd Floor**

**Majeed Plaza, Bank Road, Saddar. Rawalpindi, Pakistan**

**Ph; +92-51-5511686, +92-301-5240550 , +92-333-5233113**

**Email; [dohrpk@gmail.com](mailto:dohrpk@gmail.com), [chairpersondhr@gmail.com](mailto:chairpersondhr@gmail.com) , [aishahmasood.dhr@gmail.com](mailto:aishahmasood.dhr@gmail.com)**

**Website: [www.dhrpk.com](http://www.dhrpk.com)**

**Follow us:**

**Facebook:**

**<https://www.facebook.com/DHRPK>**

**Twitter:**

**<https://twitter.com/dohrpk>**

**Instagram:**

**[https://instagram.com/dhr\\_pk?igshid=1mf3pydocvaln](https://instagram.com/dhr_pk?igshid=1mf3pydocvaln)**

**Youtube:**

**<https://www.youtube.com/@dhr-defenceofhumanrights1908>**

-----