

Missing Commitment Rights

Police brutality is not the way to tackle protests on the missing people. Instead of living in perpetual denial, the government should abide by its international commitments to protect people's right to life

By Shafqat Munir

Though Pakistan last week welcomed international treaty against forced disappearances, various state agencies are being alleged by the relatives of 105 disappeared people to have held them in custody without presenting them in courts. The relatives of these disappeared people have formed an organisation called 'Defence of Human Rights' and are regularly demanding for the release of their relatives, or at least information on their whereabouts.



All the newspapers in the country on Friday morning (December 29, 2006), and all the wire agencies and radio and TV channels published or broadcast horrifying pictures and stories of police brutalities against the participants of a 'freedom march' on The Mall in Rawalpindi on the day before. The protest was organised by 'Defence of Human Rights' to hand over a protest memorandum to the vice chief of the army staff to draw his attention towards the plight of the missing people, all of them having disappeared during recent years.

In one of the photos, police is torturing a teenager for protesting against the disappearance of his father. The police also tore a part his clothes and severely thrashed him. In another photo, a girl child in the lap of her mother is crying, demanding the return of his missing father. Another little girl was seen begging before a policeman for the release of his father.

The way the police stripped and then dragged a young man, Mohammad bin Masood, the son of missing Masood Janjua, is a shame for all of us who claim to be the champions of human rights and freedom of expression and speech. The policemen were visibly furious while beating the protesters as if the latter were not the citizen of Pakistan. This was a scene reminiscent of the infamous Abu Ghraib prison and even more infamous Guantanamo Bay detention centre where the American troops brutally manhandle prisoners for their alleged al-Qaeda links.

"Are we the citizen of Pakistan? Do we have any right in this country? Do we have no right to celebrate Eid with our relatives missing for months and years," said a woman during the protest. Her husband is among the 105 disappeared people. Eye witness accounts of the protest say a young girl and a small child lost consciousness and fell on the ground. The police also beat up fathers of the missing people and dragged them. There were skirmishes between police and the protesters.

"Police torture cannot force us to budge. We are already undergoing tremendous torture every day because we don't have a clue about our loved ones," said one of the protesters.

Later a leader of the protesters, Amina Masood Janjua, told reporters that they would continue their struggle till the release of their relatives. She said they had a list of 105 missing people, mostly coming from Sindh and Balochistan. Their families and relatives are all part of this struggle, she said.

Their protests are not going unheard, at least by the local and international civil society organisations. Amnesty International released a report in September 2006 giving all the details about almost all the people missing from various places in Pakistan. The organisation also released an updated version of the report on December 08, 2006. The report was instantly rejected by the government but Amnesty insisted in a press release that the government had not acknowledged responsibility for detaining hundreds of people arbitrarily in secret locations, even though reports of disappearance continue to emerge and despite the fact that a growing anger is prevalent in the country at the practice of forced disappearances.

"The Pakistani government needs to treat this issue with the gravity and urgency it deserves -- we are talking not only about the fate of hundreds of people but also the devastating effect on their families. This situation involves serious breaches of international law," said Angelika Pathak, South Asia researcher at the Amnesty International.

She further said: "Of course the Pakistani government has a duty to protect people from security threats. At the same time, it must follow national and international law in doing so -- anyone suspected of terrorism should be charged, given access to a lawyer and their family, and given a fair trial."

The international law that the Amnesty mentions in its report got a further boost only days ago. The United National general assembly on December 20, 2006 adopted a new international treaty called 'International Convention for the Protection from Enforced Disappearance', banning nations from abducting perceived enemies and hiding them in secret prisons or killing them. The 192 nation assembly that also includes Pakistan approved this treaty by consensus which will be open for signing in Paris on February 06, 2007.

The UN general assembly President Haya Rashed Al Khalifa of Bahrain, after adoption of the treaty, said: "Enforced disappearances occur around the world and the treaty will help prevent future disappearances and bring future perpetrators to justice."

That the problem is not specific to one country or one region is shown by the fact that more than 51,000 enforced disappearances have been reported in more than 90 countries since 1980. Only last year the new reported cases of disappearance to the United Nations have been about 535. If the Amnesty International's report has to be believed a large number of these fresh disappearance have occurred in Pakistan.

Besides listing the number of missing people, the international treaty also recognises the right of all people to be safe from enforced disappearance and says victims and their relatives have the right to justice and reparations. It defines for the first time in international law the disappearance as detention, abduction or deprivation of liberty by state agents followed by a refusal to acknowledge it and a placing of those who have disappeared outside the protection of law.

The treaty calls enforced disappearance a criminal act that cannot be justified and says perpetrators must be sought out and brought to justice. It requires governments to outlaw secret detention and undeclared detention facilities and it establishes the right of families to learn the fate and whereabouts of their relatives who have been detained.

Though the United States, largely involved in disappearances and illegal detention centres, has not so far commented on the treaty and the rights experts believe the US will not ratify it, Pakistan has welcomed this treaty. Foreign Office's spokesperson told The News that Pakistan had welcomed the treaty and Pakistan's representative at the United Nations Tehmina Janjua had said that enforced and involuntary disappearance were a serious violation of one of the most basic rights, the right to life.

It is just a co-incident that Tehmina Janjua, Pakistan's representative at the UN, made this statement on behalf of Pakistan at the United Nations general assembly while women from her clan, Amina Janua, the wife of a disappeared person in Rawalpindi, repeated similar demands during the Friday protest. The only difference between the two was that while the utterance by the former must have been greeted by a round of applause, the protestations of the latter drew the official ire.

The other significant aspect of the treaty's adoption is that it has so far clearly failed to change the situation for the disappeared and their families in Pakistan.

"We have been having sleepless nights without our loved ones. We are labeled as extremists and are being treated differently for our beliefs. Our way of life is considered an aberration in our own country," says Mohammad bin Masood Janua. His father Masood Janjua has been missing since June 2005.

It's not just the relatives who suffer as a result of these disappearance. The plight of those who disappear involuntarily is even more telling. Narrating the tale of his ordeal during detention, Mohammad Atif, 23, told a news agency that he lost two precious years of his life as a result of his detention. He was picked up while on his way home from college on August 2004 and was released only in November this year.

"A taste of their own medicine would be the best punishment for these people," says Atif when asked how the agents of the state who kidnapped and detained him be punished. "The only problem is no one can touch these people," he added.

Atif's desperation that no one can touch those who are behind these disappearance has been validated by various human rights researchers and activists including the Amnesty International, the Human Rights Watch and the Human Rights Commission of Pakistan.

"The Pakistan military, the principle human rights violator in the country, enjoys impunity for its actions. Practices such as disappearances and torture (are used) routinely to quash political dissent, intimidate and terrorise its opponents and maintain its control," Ali Dayan Hasan, South Asia researcher at the New York-based the Human Rights Watch, was quoted by the press as saying.

Not just international and national rights groups have taken serious notice of the disappearances. Supreme Court of Pakistan, too, on a petition filed by Amina Masood Janjua along with the mother of another missing person, had ordered the government on November 10, 2006 to recover all the missing persons and apprise their families about their whereabouts by December 01, 2006. "On the next date of hearing, no excuse will be acceptable (for failing to do so)," Chief Justice Iftikhar Mohammad Chaudhry is reported to have told the government.

The government, however, has so far produced only 20 people, ten of whom have returned home. That the number of the missing people should be much higher than this is indicated by President General Pervez Musharraf himself. In his book, 'In the Line of Fire', he confirms capturing 689 suspects and turning over 369 of them to Washington for millions of dollars in bounty money. Whereabouts of only a few of these people are known to anyone.

The Amnesty International, in its report entitled 'Pakistan -- Working to stop Human Rights Violations in the War on Terror' has categorically stated that this practice of handing over people to Washington was violative of human rights. The organisation said the Pakistani government had committed human rights violations against hundreds of Pakistani and foreign nationals while cooperating with the US-led 'war on terror'.

Findings of the respectable human rights organisations and continued protests by the families of the missing people show that the enormity of the problem is too great to be easily rejected by the government. This clearly suggests that the reports about the missing people are too real to be rubbished easily. Most of these cases are well documented, not just by the human rights organisations but also by newspaper reports.

If Pakistan does nothing about them, despite voting for international conventions that specifically ban involuntary disappearances, it is highly likely that the protests by the families of the disappeared become violent and loud and the international protestations on the state's inability to acknowledge its responsibilities in this regard even louder.

It is important for the government to realise that the continuation of these violations of human rights is bringing a bad name to the country, its state agencies and even the army. So far, the protesters are counting on some institutions like the Supreme Court for the redressing of their grievances. What if somehow their confidences on these institutions also withers away?

We should also remember that the United States may one day feel that the Pakistani army has also become spendable in the American 'war on terror'. Washington then might be highly tempted to use these very disappearances to malign Pakistan and its armed forces.