Jails, prisoners and ‘disappearances’

No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice.

Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest.

*Constitution of Pakistan*

Article 10(1) and (2)

The dignity of man and, subject to law, the privacy of home, shall be inviolable.

No person shall be subjected to torture for the purpose of extracting evidence.

Article 14(1) and (2)

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

*Universal Declaration of Human Rights*

Article 5

Everyone has the right to recognition everywhere as a person before the law.

Article 6

No one shall be subjected to arbitrary arrest, detention or exile.

Article 8

The condition of prisoners in the country has remained largely unchanged in well over six decades since independence. Small improvements aside,
authorities have ignored calls for the prison system overhaul to serve the jail rationale of rehabilitating criminals. The lingering issue of overcrowding was addressed by announcing opening of new jails, especially in Punjab where the problem is the gravest. However, the practice of using penal servitude that mainly causes prison overcrowding, continues as the only form of punishment. Using imprisonment as the sole method of punishment does not merely cause problems in jail but also upsets entire family structures. Many have been known to linger in jails for purely civil matters such as giving bad cheques.

No alternatives to penal servitude, like community service, which could reduce the pressure of overcrowding in prisons, were introduced for minor offences. A huge majority of people lingering in jails were under-trials whose actual sentences had not even begun. Visits to jails by judges were encouraging but these visits, which could allow hearing of the cases of prisoners who have difficulty in acquiring a defence counsel or their cases linger for years due to complications besides discouraging jail officials from the torture and ill-treatment of incarcerated prisoners, were not institutionalised. No special effort was seen to make the opportunities available to prisoners for vocational training, improving their level of educational attainment and helping them in becoming law-abiding citizens.

The healthcare regime in prisons is brought under the limelight only when inedible items are found in the prisoners’ food and many faint as a result or when prisoners die as a consequence of insufficient or untimely healthcare. Though standardised in Pakistan, jail menu is rarely followed by jail authorities. Prisoners keep complaining about substandard food and resort to buying their own ration and cooking for themselves.

In a survey of selected prisons in Pakistan in 2013-14, HRCP found jail hospitals lacking in numbered beds and medication for hundreds of prisoners. No jail had a full-time female doctor. All serious health issues faced by female prisoners were referred to the local hospital. There were also reports that prisoners selected for preferred treatment were often sent to jail hospitals to avoid the cramped barracks.

HRCP found it difficult to acquire jail population data from provinces. The statements simply include total population, authorised capacity, and the number of convicted, under-trial, condemned, female and juvenile prisoners. For two years in a row, HRCP was unsuccessful in acquiring the statistics from Sindh despite repeated requests. In 2014, HRCP also failed to receive a reply from the Khyber Pakhtunkhwa government to letters and phone calls requesting prison population statements. Such figures should be readily available to the public under the provisions of the Right to Information Act 2013.

The plight of foreign prisoners, mostly in jails on drug peddling charges,
was even worse because of language barriers and lack of legal representation. Most complained that their embassies had abandoned them to their plight and could not even secure a defence counsel for them. The mistreatment meted out to Pakistani prisoners in India and to Indian prisoners in Pakistan stems from the two countries’ troubled relations. Generally treated as enemy, these prisoners aroused no sympathy from either the prison authorities or their fellow prisoners.

An unofficial moratorium on death penalty remained in effect for 11 and a half months in 2014 after which it was overturned in the wake of the attack on Army Public School in Peshawar on December 16, as a part of the government’s tough rhetoric to indiscriminately target terrorists. By the end of the year, seven persons had been hanged.

The flaws in the criminal investigation system where the likelihood of wrongly convicting persons remains high undermine any argument in favour of the death penalty. In August, death warrants were issued for some condemned prisoners and it seemed likely that the moratorium would be reversed. However, no official announcement or explanation was available.

The worrying trend of enforced and involuntary disappearances continued in Balochistan, KP and Sindh where dozens of students and political workers of nationalist parties were picked up, tortured to death and their bodies thrown in far flung areas. Enforced and involuntary disappearances have been recognized as a heinous crime and a grave violation of human rights, not just because of their impact on the victims but also because of the severe pain and suffering they cause to the loved ones of the disappeared. Pakistan has not only failed to ratify the convention against enforced disappearances but also to
penalise the violation at home. Enforced disappearances are increasingly seen as a legitimate method to counter terrorism in the absence of a judicial system capable of speedy justice. Whatever the crime is, no person deserves to be taken outside the protection of law and kept in illegal detention for years. The UN Working Group on Enforced and Involuntary Disappearances visited Pakistan in 2012 and made a host of recommendations to the government on how to curb this menace. None was complied with. Instead, the government passed laws contrary to human rights standards and in denigration of fundamental rights in the constitution.

Prisoners in Pakistan

The condition of prisoners in Pakistan remained dismal. Chronic issues such as overcrowding, lack of proper healthcare system, inferior quality food, corruption and rampant torture continued in the year under review.

According to a United Nations Office on Drugs and Crime (UNODC) report, 800 or so female prisoners in Pakistani jails were facing harassment, insanitary conditions and lack of proper healthcare. It is widely believed that a majority of the female prisoners experience sexual harassment and sexual violence at the hands of jail wardens. During prison surveys, UNODC found prevalence of suicidal depression, sleep disorders and other mental illnesses among female prisoners. No gynaecologist was available on call to attend to female prisoners in Punjab.

In February, the Punjab government approved the release of Rs 1 billion to the prisons department for the 2014 fiscal year. Till then Rs 6,099 million from the previous budget had been spent on projects such as construction of new jails, security, barracks, gadgets and medical facilities. For the 2013-14 financial year, the total allocation was Rs 1.09 billion of which only Rs 819 million were utilised. Though the prison system in the country was in shambles,
Rs 271 million out of the budget allocated to the prisons department was returned to the government as unspent.

**Overcrowding: 2/3rds of prisoners under trial**

<table>
<thead>
<tr>
<th>Region</th>
<th>Women</th>
<th>Juveniles</th>
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<tr>
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<tr>
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<td>Data not available</td>
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</tr>
<tr>
<td>Total</td>
<td>1,082</td>
<td>1,126</td>
<td>71,567</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Regions</th>
<th>No. of prison</th>
<th>Authorised capacity</th>
<th>Total prison population</th>
<th>Under-trial</th>
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<td>45,210</td>
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</tr>
</tbody>
</table>

In jails across the country, except for Gilgit-Baltistan, the population exceeded the authorised capacity. In Punjab, this excess was about 130%. In some prison barracks, a few convicts had to stand while the others slept or prisoners could not access the washroom in the night because sleeping prisoners covered the entire barrack floor. Such conditions amount to ill-treatment and are beyond the punishment of penal confinement that prisoners have to bear. Living in such close quarters to each other without access to sunlight for most of the day leads to health concerns like skin diseases and a deterioration of the general hygiene level.

The Deputy Inspector General (DIG) of Prisons informed the Lahore High Court (LHC) on November 15 that six new jails would become operational within one month in Punjab. The statement came in response to a petition filed by a lawyer against overcrowding in jails in Punjab. The DIG said that the construction of a high security prison in Sahiwal, District Jail Pakpattan, District Jail Bhakkar, District Jail Layyah, District Jail Okara and family rooms in Lahore Central Jail had been completed and their staff had already been recruited. The court asked the DIG to submit details about the 11 other prisons under construction in the province. Till the end of the year, however, none of these...
jails had become functional. The announcement for these new jails was made in March 2012 when a preliminary budget of Rs 400 million was approved for new jails to be built in 10 districts of Punjab. During a Punjab Assembly session, the prisons minister noted that jammers had been installed in 14 prisons in Punjab while provisions had been made to install the devices in all the prisons in the province by the end of the financial year. Multan and Faisalabad jails constructed family rooms in 2014.

Insanitary conditions in the prison, unhygienic food as well as overcrowding caused major health concerns. During a Punjab Assembly session, the Punjab prisons minister stated that in prisons across the province, 80 HIV positive and 31 AIDS patients were present in December 2014. He said the per-head cost of food for prisoners had increased to Rs 80.9. However, HRCP’s fact-finding missions in 13 prisons all over Pakistan in 2013 and 2014 failed to see improvement in food quality. In October, 17 prisoners in District Jail, Swat fainted after consuming contaminated food. The affected prisoners were sent to Saidu Sharif hospital for treatment while the two jail officials held responsible for the incident were suspended. The quality of food observed in HRCP’s prison survey confirmed that there was room for significant improvement.

Riots proved increasingly difficult to control, especially in prisons where high profile terrorists were confined. On January 5, two factions of the Taliban clashed in Central Prison, Peshawar, during a row over Asr[afternoon] prayer. One group wished to perform collective prayer first but was not allowed to do so by the opposing faction. Prison staff was able to control the situation in half an hour but by then seven prisoners had been injured. Army personnel also reached the prison but the situation had already come under control. The security forces, which had carried out an 18-hour search operation in the
On January 10, a brawl broke out between Christian and Muslim prisoners at Kot Lakhpat Central Jail, Lahore. A few weeks earlier a Muslim teacher had warned a Christian teacher not to preach Christianity in the prison. The argument escalated and resulted in a clash. Subsequently, the jail officials isolated some Christian prisoners for complaining to their families about ill-treatment and beat them with clubs. The police beat them for half an hour and severely injured 33 prisoners, according to some inmates. The prison authorities said they had filed an FIR against five Christian prisoners. However, no such FIR was found, nor was there a record of the clash in the prison’s daily diary.

A person claiming to be a spokesperson for the banned Tehreek-e-Taliban Pakistan (TTP) called a local newspaper in Karachi and warned the officials of the Karachi Central Jail to stop what he called torture and ill-treatment of 100 or so Taliban prisoners. The caller threatened jail officials, stating that their fate would be similar to that of Crime Investigation Department’s Superintendent Chaudhry Aslam, who was killed in a bomb attack on his car in Karachi on January 9 in 2014. He said that in Sukkur Jail, Taliban prisoners were stripped and tortured while in Central Jail, Karachi, they were not allowed to meet their families. He said that if the Taliban prisoners were transferred from one jail to another, they would also transfer former prime minister Yusuf Raza Gillani’s son, who remains in Taliban custody since May 2013, to a place ‘from where his return would be impossible.’

There were some positive efforts to introduce advanced technology to facilitate provision of justice to needy prisoners. In early 2010, prisons in Punjab installed video conferencing facilities to conduct trials in jails for dangerous criminals, thus diminishing the risks faced while transferring them.
to and from courts. It could also prove useful for identification of prisoners without legal representation and to provide them with free legal aid. However, the system was marred by problems in Kot Lakhpat Jail Lahore where it had been installed for many years. Several hours of load shedding meant that the system could not function properly. Since courts had hundreds of cases to go through in a day, waiting for electricity for hours so that the case could proceed wasted precious time.

**Prison break**

Though the discourse surrounding prisons in the country almost exclusively revolved around greater security and completely ignored aspects such as rehabilitation, actual or suspected prison breaks remained a problem throughout the year. The security equipment in use at the prisons was largely found to be either defective or non-existent. Phone jammers were installed in 15 jails in Punjab at the end of November. Otherwise, the use of cell phones to commit crimes and carry out terrorist activities from within jails had remained a cause of alarm for authorities. Another problem that added to the lax security was jail officials’ corruption. Bribes were paid to help prisoners escape or to allow cell phone use inside the prisons.

Two prisoners managed an easy escape from the Sadar Police Station in Tank district of Khyber Pakhtunkhwa. On February 9, when prisoners were brought outside their cells in the courtyard for prayers, three prisoners managed to escape by the front gate. Their absence was only noted by the police when a head count was done afterwards. One of the prisoners was caught while the search for the other two was going on. That the escape was such a simple affair was perhaps because the judicial lockup with a capacity of 15 housed 62 under-trial prisoners.

On January 3, the army conducted a search operation in Peshawar Central Prison after receiving intelligence reports that terrorists had passed on jackets, potentially believed to be stuffed with explosives later for use in suicide bombings, to Taliban prisoners in the jail. The search operation started at 10 pm when 150 army personnel carried out a thorough search in the prison to recover any hidden explosives. A day before, a Taliban prisoner had requested a policeman to receive some jackets at the gate of the prison. The policeman took the jackets in his possession but they were not passed on. An operation was carried out by security forces with explosive detectors and sniffer dogs. The security forces confiscated some SIMs recovered from prisoners. They allegedly took control of the prison for two days and afterwards kept making surprise visits. They also detained a police constable and shifted him to an unknown location for allegedly having links with the incarcerated militants. The jail administration was told that the entire operation was nothing more than a security rehearsal. Later it was also reported in the media that the
Jackets were perhaps ordered by the prisoner only to cope with the cold weather.

In October, Rangers personnel in Karachi managed to foil a major jailbreak attempt involving an underground tunnel. Some five months earlier, several suspects had purchased a house in Ghausia Colony near Central Jail, Karachi and proceeded to dig a 45-metre tunnel to free some 100 or so prisoners. When the tunnel was discovered after intelligence reports informed the local police, it had to be dug only another 10 meters more in order to reach the jail barracks, which lay at approximately 55 meters from the purchased house. A representative of the Pakistan Rangers in Sindh confirmed that the persons arrested belonged to a banned outfit though he did not confirm their number. It was later revealed by the provincial minister of prisons and IG prisons that the house was bought from a policeman at four times its market price. A committee headed by the home secretary was also constituted to carry out investigations into the incident and find out if any inside help was provided.

On February 4, six prisoners undergoing trial for murder, robbery, theft, kidnapping and other heinous crimes managed to escape from the Dalbandin Police Station’s judicial lockup in Balochistan province. The six men managed to break the rear wall of the lockup and escape in the night of February 3. Subsequently, 11 policemen were suspended for negligence. A search operation was launched in Chagai and Noshki districts to re-arrest the prisoners.

Custodial torture

According to the penal code, any piece of evidence acquired through torture cannot be used in a court of law. However, custodial torture remained rampant in jails and police stations across Pakistan. Torture is yet to be defined...
in the penal code of Pakistan. So, all matters relevant to it are dealt with under grievous hurt clauses. Also, the narrow definition of torture given in the Police Order 2002 limits it to torture by police officials and only when the intent is to extract a confession. Thus, for example, torture committed by the law enforcers to extract bribes is not covered. Lack of use of sophisticated methods of investigation, like DNA testing etc, leaves the investigation team with only one method to solve a crime i.e. confession. A cursory glance at convictions in any year shows that in a majority of cases, the primary evidence used to convict someone is confession. Perhaps then the only thing standing between a conviction and a lingering case for police officials is the use of torture to extract a confession. The government must invest in alternative and more sophisticated methods of investigation so that the police officials do not feel entitled to torture the accused.

According to HRCP’s media monitoring, 72 prisoners died in jails in 2014 while 47 others were injured due to accidents or in various clashes. At least 50 of these deaths were confirmed to have been caused by illness or old-age and at least three as a result of custodial torture. The high incidence of deaths in custody of young or apparently healthy men due to heart failure was a worrying trend. Persons, either accused or arbitrarily arrested, were often picked up by the police and their bodies handed over to the family within a few days. Post mortem reports were rarely made public and few policemen found guilty were ever tried or punished otherwise.

On November 21, a man was accused of drug peddling and taken into custody. The next day the police said he had died in custody and his body was handed over to the family. The family staged a demonstration in front of the Green Town Police Station in Lahore and demanded registration of case against its Station House Officer (SHO). Instead of lending an ear to the aggrieved family, the police arrested 10 protestors and registered a case against them. The demonstration was called off after the DIG wrote to the Capital City Police Office (CCPO) requesting for a judicial inquiry into the matter.

There were reports of the prison officials demanding heavy bribes from the prisoners in order to escort them to court for a hearing. Those who could not pay or refused to do so were severely tortured. In June, a prisoner was beaten so badly by the jail superintendent of Central Jail, Lahore that the prisoner’s right leg was fractured. The prisoner petitioned in court against the torture. While hearing the case, the additional district and sessions judge asked the jail authorities to step outside so that the victim could record his statement. The detenu said that the prison officials shaved off prisoners’ head and eyebrows and subjected them to brutal torture if they failed to carry out their demands. Later on, however, the prisoner proceeded to forgive the officials involved.

In May, a 68-year-old man with four Masters degrees, convicted for
murder and incarcerated at Adiala Jail, was tortured and stripped naked after he protested against the jail authorities’ attitude. During routine search, the jail assistant superintendent (ASP) took away his two vests to which the prisoner protested. The ASP forced him out into the lawn and in full view of the other prisoners tortured him and stripped him naked while hurling abuses at him. His daughter filed a petition in the Islamabad High Court (IHC) against the jail officials. During a hearing on May 28, the judge directed the Prisons IG to submit a detailed report after inquiry into the incident. He also highlighted the dual standards observed in prisons in which some favoured prisoners were given LCD televisions while others did not even have access to pain-killing medications. The victim also noted that the jail staff regularly demanded bribes from him and though he was entitled to a B class status, he was kept with C class status prisoners.

As per law, it is the obligation of the state to carry out a medical examination of an accused before and after the physical remand at a judicial lockup in a police station. On the basis of the second report, the court decides whether the evidence is admissible or not depending on whether it was acquired through torture. However, medico-legal reports are rarely accurate and the police officials are known to influence their findings. Medical officers sometimes sign the report without having examined the accused. Such practices make it difficult to detect torture and to curb it.

Indian and Pakistani prisoners

India and Pakistan continued arresting each other’s fishermen and seizing their boats for violating their territorial waters though their borders are not clearly defined in the Arabian Sea. Many are sent to jail where they often languish for at least a year before being handed over to the authorities in their
homeland. India freed 37 Pakistani fishermen held for almost 16 months in May. Pakistan also freed 151 Indian prisoners in the same month and returned 57 fishing boats as a goodwill gesture before Prime Minister Nawaz Sharif’s attendance at Narendra Modi’s swearing-in as India’s prime minister.

In December alone, 58 Indian fishermen were arrested from Pakistan’s territorial waters. By the end of the year, they were waiting for an appearance before a magistrate.

On December 11, a 30-year-old Indian fisherman died while imprisoned at the Malir District Jail in Sindh. He had been arrested along with other fishermen by the Pakistan Maritime Security Agency 10 months earlier. The initial report submitted to the sessions judge stated that there were no marks of torture on his body. According to the medical officer of the prison, he had suffered from hypertension and asthma. The cause of death was withheld until the autopsy and chemical examination reports were released.

After a delay of several months, some headway was made in the murder case of Sarabjit Singh, an Indian national sentenced to death by the Supreme Court of Pakistan in 1991 over terrorism charges. On September 10, in a trial resumed through video-link due to security concerns, the Lahore additional district and sessions judge summoned prosecution witnesses. Sarabjit Singh was murdered in a high security jail in Pakistan in an assault by fellow death row prisoners in 2013. Initially a one-member judicial commission was constituted to probe the murder. In the commission’s report, Sarabjit’s killers confessed to the crime, stating that it was revenge for his involvement in bomb blasts in Lahore and Faisalabad.

Death Penalty

An informal moratorium on death penalty had been in place since 2008, with only one execution till December 19, 2014. The death penalty had been halted through a temporary executive order and the HRCP had been calling for years to formalize it by banning the death penalty. In early August it seemed the moratorium would be lifted because of the PML-N government’s initial statements. After a meeting of Prime Minister Nawaz Sharif with out-going President Asif Ali Zardari, it was decided that the moratorium would continue. Though rights bodies welcomed the move, they criticized the government for not sharing with the public the reasons for the decision.

The moratorium on death penalty was lifted after an attack on the Army Public School in Peshawar on December 16. On December 17, the president announced the resumption of executions only for those convicted of terrorism charges. By the yearend, seven men had been executed in different jails across Pakistan. Of these 11, at least six were convicted for an assassination attempt on the then president and army chief, General Pervez Musharraf in 2004. Till December 23, President Mamnoon Hussain had rejected the mercy petitions
of 50 prisoners on death row.

The Punjab and Sindh governments were set to amend execution rules in the Prison Rules of 1978 to allow execution of a convict a day after their black warrant was issued. Such measures aimed at speedy justice often ignore procedures and laws. The Prison Rules required that an execution must take place at least 14 to 21 days after the issuance of the black warrant. Such rules give room for pardon so that a life can be spared if the victim’s family pardons the perpetrator after their death warrant has been issued.

In a conversation on December 25, UN Secretary-General Ban Ki Moon urged Prime Minister Nawaz Sharif to halt executions and revive the moratorium. After offering his condolences for the school tragedy in Peshawar, he stated that while it was important to respect the sentiments of the people of Pakistan, the need for an independent judiciary to uphold the rule of law could not be stressed enough.

Pakistan had one of the largest populations of death row prisoners in the world, more than 8,000 by the end of 2014. Of the 231 persons condemned to death in 2014, 105 were sentenced for murder. Though it has been clearly stated that the ones to be hanged will be only those convicted of terror charges, the issuing of a black warrant for Shafqat Hussein indicated that perhaps the death penalty would not be restricted to the most serious offences. In 2004, the 15-year-old Shafqat Hussein was sentenced to death by an Anti-Terrorism court. The judgment was based on a confession which was retrieved after nine days of brutal torture, evidence of which was available in medico-legal reports. His crime did not have anything to do with terrorism either. Shafqat’s death warrant was soon to be issued at the end of the year and numerous human rights groups from around the world campaigned against it. He was also scheduled for execution in August 2013 along with seven other men but it was cancelled merely a week before the execution was set to take place.

In 2011, religio-political Jamaat-e-Islami party had written a letter to the
president, seeking a pardon for Mumtaz Qadri, the self-confessed killer of Punjab governor Salman Taseer. The letter said the case should be withdrawn because the murder was ‘in the public interest’ and ‘in line with the sentiments of the masses’. In a statement issued on December 20, 2014 however, the party’s secretary-general said death sentence created a sense of respect for and sanctity of the law in society. He also said that ‘murderers, terrorists and enemies of humanity’ don’t deserve concessions. Such dual standards in dealing with murderers and terrorists brought the resolve of the proponents of death penalty into question.

In January, Muhammad Asghar, a 70-year-old Briton, was sentenced to death by a court in Rawalpindi over allegations of blasphemy. Asghar had a long history of psychiatric problems; he was diagnosed with and treated for depression in as early as 1993. In 2010, he was diagnosed with late onset of paranoid schizophrenia. He was initially arrested in 2010 after he wrote letters claiming prophethood. During his trial, Asghar claimed to be a prophet in court in the presence of the judge and the prosecutors. Despite the overwhelming evidence of psychological disease, he was found mentally fit to stand trial and subsequently sentenced to death. Politicians, including British Prime Minister David Cameron, academics and numerous rights groups in Britain and Pakistan pleaded for mercy. His family appealed that Asghar remained unsafe in Adiala Jail as Pakistan had seen numerous cases of mob justice in cases of blasphemy. On October 28, a prison guard at Adiala Jail proceeded to shoot and seriously injure Asghar. Subsequent investigation and interrogation revealed that the guard had served two weeks

<table>
<thead>
<tr>
<th>Region</th>
<th>Convicts</th>
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<tr>
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at Mumtaz Qadri’s jail cell. During this time, Qadri had regularly given him religious sermons and motivated him to target blasphemy accused prisoners in the jail.

For some years now HRCP has been calling for a reduction in the number of offences which carry the death penalty. Till 2014, more than two dozen offences carried the death penalty including adultery, sabotage of the railway system and stripping a woman’s clothes. The argument that the death penalty is a deterrent to heinous crime is countered by the falling number of death penalty convictions in Pakistan. In the moratorium years, the courts continued to hand down death sentences but the number reduced consistently from 455 in 2004 to 231 in 2014, potentially indicating a fall in serious crime in recent years.

**Disappearances/arbitrary detention**

A grave human rights violation in the form of enforced and involuntary disappearances continued unabated in Pakistan during 2014. The momentum gained in 2013 in trying those responsible for enforced disappearances by the Supreme Court all but faded into oblivion as further cases were reported from all regions of Pakistan except Punjab. By the end of 2014, in the entire Asian region, only Philippines had a specific law outlawing enforced disappearances. Where once cases of enforced disappearances were reported only from Balochistan and more recently from KP, the year under review saw the worrying trend grow in Sindh. Pakistan, instead of taking steps towards prohibiting this serious human rights violation, moved towards providing the perpetrators with legal cover. Completely disregarding the recommendations by the United Nations Working Group on Enforced and Involuntary Disappearances made in 2012, the government passed the Protection of Pakistan Act (PPA) 2014 which was
a defeat for human rights groups, civil society, families of the disappeared and all concerned citizens of the country.

The government’s seriousness in ensuring justice and protection of human rights for the population and ending impunity was seriously doubted in July when the National Assembly passed the Protection of Pakistan Bill 2014. Within one week of its passing, it was challenged in the Islamabad High Court by an MNA for having provisions contrary to the fundamental rights enshrined in the constitution. The PPA aimed at protection against waging war against Pakistan, prevention of acts threatening security of Pakistan and for speedy trial of offences, though these were already covered under a host of existing laws including Pakistan Penal Code. The PPA, vide a number of provisions, stripped the citizens of Pakistan of their most basic rights. Any person even suspected of about to cause death, grievous hurt to or destruction of property of the armed forces and its subsidiaries could be arrested or fired upon. It granted the armed forces immunity for arbitrary detentions when it said “Government may not in the interest of the security of Pakistan disclose the grounds for detention or divulge any information relating to the detainee”. According to international human rights standards, the involuntary abduction or deprivation of liberty by agents of the state and subsequent denial of information regarding the detainee are the conditions which qualify as enforced disappearance. Despite the obvious breach of constitutional guarantees, the bill was passed, effectively legalizing arbitrary arrest and detention, and enforced disappearances.

According to the Commission of Inquiry on Enforced Disappearances (CIED) report submitted to the interior ministry at the end of 2014, there were as many as 1,265 cases of missing persons pending with the commission. According to the interior ministry, 155 bodies of missing persons were found in 2014, 67 of which were Baloch. A Supreme Court judge said on record
“…the involvement of intelligence departments has been found in every case [of missing persons] which the court took for hearing.” Despite these well-documented cases and officially accepted figures, HRCP was not aware of a single case in which the security forces or the intelligence agencies had faced prosecution or even an inquiry for unlawful deprivation of liberty, arbitrary arrest and illegal confinement in Pakistan. International human rights law and International Covenant on Civil and Political Rights (ICCPR) place a burden on the authorities in Pakistan to investigate gross violations of human rights. The CIED was able to trace 56 missing persons in October alone but prosecution and conviction details were not available.

According to data from HRCP’s monitoring of 48 critical districts of Pakistan, 129 new cases of enforced disappearance were reported in the year under review, 106 of which were from only nine districts of Balochistan. In November, the bodies of five persons, who had been missing since July, were recovered from a field in village Kotarpan in Nowshera, Khyber Pakhtunkhwa. The bodies were thrown in gunny bags and a post mortem revealed that the cause of death was poison administered through injections. They were identified through their identity cards in their shirt pockets. All wore the same clothes they had worn when they had disappeared four months earlier. Two of these men, namely, Asghar Ali and Irshad Ali, had been charged with numerous crimes but had been acquitted by the Anti Terrorism Court in 2010. A third, Zulfiqar s/o Fazal Ilahi was charged with car lifting but was on bail when he was picked up in July 2014. The remaining two, Mushtaq Ahmad Jan and Noor Rahman, had no cases registered against them. The case was unlikely to make much headway in the courts, especially in terms of convictions for the perpetrators though it was a clear case of extra-judicial killing and enforced disappearance.

On January 1, the Supreme Court sought a reply from the defence ministry regarding the disappearance of Atiqur Rehman, an engineering student at the University of Lahore, who went missing from Sheikhupura in July 2012. The Commission of Inquiry on Enforced Disappearances (CIED) presented its report to the court in which it stated that prima facie the case was one of enforced disappearance and held the intelligence agencies responsible. However, a report submitted by the Military Intelligence (MI) and the Inter-Services Intelligence (ISI) said they had no information on Atiq ur Rehman’s whereabouts. In July 2012, Atiq ur Rehman had received a phone call from his friend to arrange a meeting. The two met at a nearby shop when personnel of the Punjab police, some persons in plainclothes and a few commandos picked up both of them and took them away in separate cars. Atiq ur Rehman’s friend, who was released four months later, explained that the two had been kept separately in captivity.

In late January, a local farmer in Tootak area of Khuzdar district in Balochistan province discovered some human remains near his house. When
security forces arrived and started digging around, a mass grave was discovered. Immediately afterwards, the chief minister of Balochistan constituted a judicial commission to conduct an inquiry. According to official reports, 17 dead bodies were retrieved from the graves, though rights groups and families of missing persons said the figure was severely understated. Human rights bodies also dismissed the findings of the commission which absolved the armed forces and intelligence agencies of any responsibility in the case. The site itself was almost immediately cordoned off by the authorities and subsequently no rights groups were allowed to visit to conduct impartial fact findings. Organizations and groups working for missing persons in Balochistan said that the Tootak mass graves were one among many found all over the province.

HRCP expressed alarm at the rising number of cases of enforced disappearances and dumping of bodies in Sindh in 2014. According to HRCP’s media monitoring, 11 political activists have disappeared from Sindh in 2014. The persons picked up and dumped later were all young men, often associated with nationalist political parties. The victims included Sindh University students, activists of Jeay Sindh Muttahida Mahaz (JSMM), Jeay Sindh Qaumi Mahaz (JSQM) and others. In the numerous cases reported, the involvement of the agencies and security forces was either confirmed by eye-witnesses or was actively suspected due to the precedent they have set in dealing with dissent over the last few decades in Pakistan. On October 30, a JSQM activist Waheed Lashari was travelling with his sister on public transport when he was abducted from Qambar Shahdadkot district in Sindh. His bullet-riddled body was found from a sewerage pond in Karachi’s Malir area. On September 18, a 28-year old Sindhi named Rano Khan was taken into custody by the police during a raid in his village. When the villagers and Rano Khan’s family visited the police station the next day, they denied involvement in any raid or in the arrest of Rano Khan.

Despite orders from the sessions judge for Khan’s release, his whereabouts remained unknown.

The charred bodies of three JSQM activists, including that of Maqsood Qureshi, the brother of Bashir Qureshi, were found in a burnt out car in Hyderabad on 21 March. No headway was made in investigations while the party blamed the incident on intelligence agencies.

Pakistan has not yet signed or ratified the convention against enforced disappearances. Nor has it defined the crime in domestic legislation. But the government still has a responsibility to investigate and prosecute cases of enforced disappearance under Article 9 and 10 of the Constitution of Pakistan which prevent deprivation of life or liberty of a person and provide safeguards against arbitrary arrest and detention. All persons who have been denied justice by being arbitrarily detained or disappeared and kept under illegal confinement should be paid compensation by the state. The laws which were in place to provide protection against crimes committed by state agents should have
provisions for compensation and reparation so that the victim’s faith in the rule of law and justice can be restored.

**Internment centres**

For several years thousands of persons, kept outside the ambit of the law under illegal detention, have been confined in unaccounted for internment centres in Khyber Pakhtunkhwa province. There was no official record of these prisoners, nor any access to courts in the country. They could simply be picked up and hidden away for years under various security laws application to FATA and PATA regions. These prisoners did not enjoy the safeguards other prisoners did in the country i.e. visiting rights of families, right to appeal for an inquiry in case of torture or custodial death.

In 2014, the Peshawar High Court directed the head of the Kohat internment centre to produce a report on the deaths of four internees whose families were handed over their bodies without fulfilling the legal requirement of a post-mortem examination. The families had complained that their loved ones’ bodies bore visual marks of torture with at least one aging man saying his son’s legs were blackened perhaps due to poisoning or electrocution. The court directed the FATA additional chief secretary and provincial home secretary not to hand over an internee’s body to their family without first ascertaining the cause of death. The court inquired from the person in charge of the internment facility and the superintendent of Kohat Jail why the post-mortem had not been conducted. When their reply was received by the court in October, it was immediately rejected. The death certificates produced before the court said that the deaths were natural and despite provision of medical facilities, the internees had not recovered. The officials failed to produce post-mortem reports. On November 18, the court issued arrest warrants for the two officials for their failure to comply with the court orders. Till the end of the year, the death certificates had not been produced.

In November the Peshawar High Court dismissed six habeas corpus petitions by families of missing persons after they were traced to an internment centre in Ghalanai in Mohmand Agency, FATA. The detainees had been interned under the Action in Aid of Civil Powers Regulation 2011 and had been declared ‘black’, which meant that the authorities possessed evidence of the persons’ involvement in terrorist activities and thus the courts could not proceed any further in the case. Simply an acknowledgment by the authorities of having detained a person does not provide any legal remedy to the accused as they remain vulnerable to torture, ill treatment and even extra-judicial killing.

**Recommendations**

1. The government should immediately codify enforced disappearance and declare it unlawful and prosecute those held responsible for this heinous
human rights violation.

2. Pakistan should immediately ratify the International Convention for the Protection of All Persons From Enforced Disappearance.

3. Since Pakistan ratified CAT in 2012, it should be codified into law and provisions made to provide compensation and reparations to the victims of torture. According to international standards of human rights, reparation and compensation is due to all those who have been denied justice under the law. Provisions should be made to provide reparations for persons who have been disappeared, arbitrarily arrested and detained or their next of kin.

4. Human rights groups should be allowed to visit internment centres so that persons confined there can be brought under the ambit of the law.

5. The judicial system should devise alternatives to penal servitude so that the problem of overcrowding of jails can be addressed.