



**MEMORANDUM**

July 17, 2018

**To:** Hon. Brad Sherman  
Attention: John Brodtke

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**Subject:** **Enforced Disappearances in Pakistan**

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This memorandum responds to your request for background information on the incidence of so-called enforced disappearances in Pakistan. Portions of the following content may appear in other CRS products. Please contact us if you need further assistance.

## Enforced Disappearances in Pakistan

Enforced or involuntary disappearances have been and continue to be a significant issue in Bangladesh, India, Pakistan, and Sri Lanka. Disappearances have also taken place in Nepal, in particular during the country's 1996-2006 civil war. However, the number of such incidents has been negligible in recent years; the country is thus omitted from the present review.<sup>1</sup>

The United Nations Office of the High Commissioner for Human Rights' (OHCHR's) International Convention for the Protection of All Persons from Enforced Disappearance (or Convention on Enforced Disappearance, CED) is a treaty-based instrument adopted by the United Nations in 2006. According to Article 2 of the Convention,

“enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support, or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Article 1 states that, “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced

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<sup>1</sup> The Geneva-based International Commission of Jurists (ICJ) estimates that 1,300 Nepalis were “disappeared” from 1996 to 2006 (see a brief review of the Nepali setting in the August 2017 report “No More ‘Missing Persons’: The Criminalization of Enforced Disappearance in South Asia” at <https://www.icj.org/wp-content/uploads/2017/08/South-Asia-Enforced-Disappearance-Publications-Reports-Thematic-Reports-2017-ENG.pdf>).

disappearance.”<sup>2</sup> As of June 2018, the CED had 58 state parties among 96 signatory states. Of South Asia’s five largest states, only Sri Lanka is party to the Convention; India is a signatory, while Bangladesh, Nepal, and Pakistan have taken no action. The United States is not signatory to the CED.<sup>3</sup>

The Islamabad government has taken no action on the CED. The ICJ estimates that from 1,250 to more than 18,000 enforced disappearances have occurred in Pakistan since 2009.<sup>4</sup> In an August 2017 report on Pakistan, the UNHRC expressed concern with

the high incidence of enforced disappearances and extrajudicial killings allegedly perpetrated by the police and military and security forces; the absence of explicit criminalization of enforced disappearances in domestic law; the Actions (in Aid of Civil Power) Regulation, 2011, which provides for detention by the army without warrants or judicial supervision and indefinite detention in military internment centers, and the allegedly high number of persons held in secret detention under the Regulation.<sup>5</sup>

In its *World Report 2018*, Human Rights Watch (HRW) accused the Islamabad government of making enforced disappearances of suspected militants a “nationwide policy” against its own perceived political enemies:

The Pakistan government is increasingly silencing critical voices of journalists and activists under the pretext of national security. Enforced disappearances, extrajudicial killings, and torture take place with impunity, while security forces exercise undue political influence over civilian authorities. ... In its efforts to tackle security threats from armed extremists, security forces committed serious violations during counterterrorism operations, including torture, enforced disappearances, and extrajudicial killings. ... In 2017, the practice of enforced disappearances targeting suspected militants—previously restricted to the conflict areas of Balochistan, Federally Administered Tribal Areas (FATA), and Khyber Pakhtunkhwa—became a nationwide policy with the targeting of bloggers and activists all over Pakistan.<sup>6</sup>

Five left-leaning Pakistani social media activists mysteriously disappeared in January 2017, all of whom reappeared unharmed weeks later and unwilling to discuss their experiences. The episode brought renewed focus on the unchallenged role of the country’s security agencies, which denied any knowledge of the cases. One of the abductees later told the BBC that he had been tortured by “a state intelligence agency” during his disappearance.<sup>7</sup> In December 2017, peace activist Raza Khan was abducted in Lahore. A characteristic the abducted activists appear to share in common is the desire to improve Pakistan-India relations. The State Department expressed being “very concerned” about the reported disappearances of political activists and journalists in Pakistan, many of whom hold of anti-Taliban views and/or are critical of the government.<sup>8</sup>

At least 1,500 cases of enforced disappearances reportedly remain pending with the government’s investigative commission.<sup>9</sup> In early 2018, Pakistan’s Supreme Court launched an inquiry into an alleged

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<sup>2</sup> See <https://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>.

<sup>3</sup> In 2005, the State Department expressed “serious concerns” about “a document that includes provisions the United States does not support, and to which we have registered key reservations,” especially “insufficient” definitions and an absence of superior orders that could leave “unwitting” security personnel subject to unjust prosecution (see the statement at <https://go.usa.gov/xUk5E>).

<sup>4</sup> See the 2017 report at <https://www.icj.org/wp-content/uploads/2017/08/South-Asia-Enforced-Disappearance-Publications-Reports-Thematic-Reports-2017-ENG.pdf>.

<sup>5</sup> See CCPR/C/PAK/CO/1 at <https://www.ohchr.org/EN/countries/AsiaRegion/Pages/PKIndex.aspx>.

<sup>6</sup> See the *World Report 2018* Pakistan narrative at <https://www.hrw.org/world-report/2018/country-chapters/pakistan>.

<sup>7</sup> “Pakistan Blogger Aasim Saeed Says He Was Tortured,” BBC News, October 25, 2017.

<sup>8</sup> See the January 13, 2017, State Department transcript at <https://go.usa.gov/xnd2t>.

<sup>9</sup> Beena Sarwar, “In Pakistan, Promoting Peace with India Can Be Bad for Your Health” (op-ed), *Washington Post*, December 22,

shootout between Karachi police and purported Islamist militants. Police data reportedly shows that the commanding police officer, a senior superintendent, has overseen a seven-year tenure during which at least 450 people have been killed in 200 clashes with police involving weapons in his largely-Pashtun district.<sup>10</sup>

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2017; "Pakistani Activist Raza Khan Reported Missing," *Al Jazeera* (Doha), December 6, 2017.

<sup>10</sup> "Pakistan Police Killing of Pashtun Youth Fuels Anger Over 'Encounters,'" Reuters, January 27, 2018.

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