

Scenario 80

SAGA OF MISSING PERSONS:

Referring to **AS Ghazali's** essay titled **'The Issue of 10,000 Disappeared Persons....'** dated **9th January 2010**, appeared on internet media:

'Perhaps the issue of missing persons and the NRO's legality were the main causes behind the US and Mr Zardari's reluctance to reinstate the CJP Iftikhar M Chaudhry. However, under intensive public pressure and massive pro-Chief Justice Demonstrations, President Zardari and Washington agreed to his restoration in March 2009.

Now the nightmare is coming true.

On January 7, 2010, the Supreme Court has opened another front [besides NRO's Pindora box] against the Zardari government with the resumption of hearings on the case of thousands of disappeared or missing persons apparently kidnapped by the intelligence agencies and many of whom have been handed over to the United States.'

As per Ghazali's research - the term **'disappearance'** was created during the 1960s at the School of Americans, an institute set up by the US military at Fort Gulick in Panama, which ran there till 1984. 45,000 Latin American officers were trained in counter insurgency there. Along with anti - guerrilla tactics, they were taught how to torture, and how to 'manage' prisoners. As soon as the officers left for their home countries, they applied what they had learned with **'disappearances'** taking place in a large number of South American nations through the 1960s and 1970s. Four decades on, the families of the 'disappeared', in Argentina, in Chile, in Venezuela and in other countries were [still] pursuing the matter and were gaining at least some justice.

A generation ago, officials from Argentina's Naval Mechanics School, known by its Spanish acronym, ESMA, secretly loaded drugged prisoners into aircraft and threw them out over the brown and frosty waters. As many as 5,000 people were "disappeared" at the hands of ESMA, perhaps the most horrifying symbol of South American repression in the 1970s.

In December 2009, almost 40 years after these crimes were committed, 19 officials from ESMA, who were previously given amnesty by the government, finally appeared in court. Not surprisingly, similar methods were [till recent past at least] adopted by the Pakistani intelligence agencies in their cooperation with Washington's **'war on terror'**[WOT].

Nobody knows the exact number of the people who had been picked up by the Pakistani intelligence agencies during the last few years, particularly after 9/11. According to the Human Rights NGOs of Pakistan, about 10,000 people disappeared while a government list provided in 2010 to the Supreme Court mentioned 1390 people only. Baluchistan province's government said that 922 Baluchis were missing. In his book **'In the line of fire'**, Gen Musharraf had acknowledged at page 237 that:

'We have captured 689 [persons] and handed over 369 to the United States. Various people have earned bounties totaling millions of dollars.'

In 2003, Dr Aafia Siddiqui [*a Pakistani neuroscientist*] and her three children disappeared while on their way to Karachi airport to get a flight to Islamabad. In August 2008, US officials claimed she had been in their custody in Afghanistan only since July 2008, even though she

had disappeared five years earlier. She was shifted to the US then tried in court on charges of firing at American soldiers in Afghanistan and was sentenced for 84 years imprisonment; the US slogan of humanity – HURRAY.

START OF THIS MENACE IN 1990s:

The fact remains that one of the cogent reasons that why CJP Iftikhar M Chaudhry was sent home on 9th March 2007 was that he had rendered a number of alarming and disturbing decisions challenging the then Establishment's policies. One of them was regarding 'the missing persons' for which one Amna Masood Janjua had started open street protests in Islamabad which was gaining momentum day by day pointing towards ISI, IB and FIA directly. By demanding accountability for the missing persons, the Supreme Court had refused to reduce constitutional rights and liberties to the military cum political regime then in power.

After comeback in March 2009, CJP Iftikhar M Chaudhry continued to hold the Establishment accountable on that count. The hearing of missing persons case continued but, regrettably saying, that till mid 2013 at least, the case could not give actual desired relief except few recoveries out of 256 as stated by the Human right activists. No sensible government on globe, military or democratic, normally opt to commit torture, engage in extra-judicial killings, and allow foreign agents to abduct persons with or without the connivance of domestic intelligence agencies. Deportations and extraditions of so called 'terrorists', were mostly exercised to balance personal scores, abundantly deceiving due process of law.

Most of the people think that Gen Musharraf's regime had made a pact with the Bush administration to institute a faceless [and lawless too] 'war on terror'. The constitutional rights and freedom of Pakistani citizens were severely compromised. Hundreds of Pakistanis had disappeared with no trace, no FIR, no entry in any police or army record which was otherwise a criminal act on behalf of the state. It was a ruthless and brutal violation of human rights charter in which domestic and foreign intelligence agencies were jointly involved in hunting down real and imagined terrorists.

The actual game had secretly taken start much earlier. In fact these illegal, unauthorized and under-hand deportations had started in the days of Rehman Malik's tenure in FIA in 1995-96 when Aamil Kanshi was [*first such offence on police record*] handed over to Americans for personal reward. For him it was a way of minting [rewards] money overnight starting from \$25000 per person.

Only one of his officers named Sajjad Hyder had knowledge of Mr Malik's extra-judicial activities and once in 1996 they both were called in the President House, by the then President Farooq Leghari, where they were awarded and decorated with medals sponsored and sent by the CIA. Since then Rehman Malik, later became Senator and Federal Interior Minister, is being considered on CIA's pay roll.

The Supreme Court has never questioned this background of missing persons. The lists of wanted persons were used to be prepared by the Americans in association with other western powers secret agents in Afghanistan and Pakistan since 1992-93 when Rehman Malik was holding a key post of FIA in the then NWFP and FATA. These lists, after due clearance from the CIA HQ, were usually given to Mr Malik for onward operations sometimes without knowledge or approval of the then Interior Ministry or high command of FIA.

When Nawaz Sharif took over reigns of the government in early 1997, the task of picking up persons on the secret lists went dormant. One officer of Intelligence Bureau named Maj (Rtd) Mulazim Hussain Bhatti, posted in K Block Islamabad, tried to help the Americans but due to his limited mobility and lack of professional skills in this field, he was soon shunted out from

the *'influential helping people list'* and he was not considered for even a part of his first case of \$25000 reward for CIA's wanted person.

When Nawaz Sharif's government was rolled back by Gen Musharraf in October 1999, this role of abducting persons wanted by the US agencies was allocated to the military agencies. The operation remained under military control till July 2007 when Rehman Malik openly joined Gen Musharraf in the garb of **'secret negotiator for restoration of democracy'** on behalf of Benazir Bhutto. After come back of democracy in Pakistan Mr Malik continued as Advisor to Gen Musharraf on the instance of US decision makers. CIA was successful in launching their agent deep into the Presidency allocating him a key post concerning with the internal security of Pakistan at highest decision making level.

Illegal deportations and extraditions of innocent people got sudden momentum in late 2007 and 2008 because then the military secret agencies had also got full ancillary support from the FIA and the IB through their boss, the then Advisor on Interior affairs, Mr Malik. The higher courts, however, failed to establish a clear principle that no foreign hand or agency should interfere in due constitutional process or fundamental rights of Pakistani people. Perhaps the judiciary had no powers or will to hold the military brass accountable so the case remained pending [till ending 2013 at least] since 2006.

The history would also remember two ugly episodes of 2008-09 when twice official notifications were issued by the Cabinet Secretariat Islamabad for placement of ISI, the top military establishment dealing with internal and external intelligence operations since 1975, under the Advisor / Minister for Interior. The reaction from GHQ based military echelons in this respect was so strong and immediate that the notifications were withdrawn by the government within next six hours leaving a black scar on the face of Interior Ministry both ways. {An essay published at Pak Spectator's internet site **on 22nd September 2013** is referred}

AMRIT SINGH REPORT ON PAKISTAN:

Referring to a Washington based group report outlined in **the 'Dawn' dated 6th February 2013**, *'Pakistan extended full cooperation to the CIA in tracing suspected terrorists and provided secret detention and interrogation facilities to the US intelligence agency. Pakistan captured, detained, interrogated, tortured, and abused hundreds of individuals, including about a dozen key Al Qaeda leaders, for the CIA.'*

The report documented **participation of 54 foreign governments** in CIA's operations against terrorists and was first published by The **New York Times** a day earlier and Indian Prime Minister Manmohan Singh's daughter Amrit Singh was one of the principal writers of the report. The chapter on Pakistan described that:

'Pakistan also permitted its airspace and airports to be used for flights operated by Jeppesen Dataplan that were associated with CIA's extraordinary operations.'

The report mentioned the US court records as showing that in 2003, Pakistan allowed use of its airports and air space for at least one flight flown by the private charter company **Richmor Aviation**, which operated flights for the CIA's rendition programme. This flight was registered as N85VM and stopped over in Islamabad during the first week of March 2003. Pakistan allowed their airports to be used frequently for refuelling while moving prisoners around the world.

Furthermore, a 2010 UN report observed that from December 2001 until the summer of 2002, Pakistan operated a secret detention programme under which detainees were initially kept in custody in Pakistan before being transferred to Afghanistan and / or to Guantanamo

Bay. Former President Gen Musharraf's admissions in his book are referred again for more details.

Detention facilities in which detainees were held at the behest of the CIA included the ISI detention facility in Karachi, which was allegedly used as an initial detention and interrogation point before detainees were transferred to other prisons. Although it was controlled by the ISI, but the detainees were generally interviewed by both US and British intelligence officials.

There had been kept no official investigation or interrogation record in Pakistan by the ISI or their American counterpart CIA and the disappeared ones went through the mill like Aafia Siddiqui, Masood Janjua, Binyam Mohammed and others. While many habeas corpus petitions were filed in Pakistani courts on behalf of disappeared individuals, the vast majority of these petitions were dismissed because Pakistani police and military agencies denied arresting or holding the individuals in question.

In 2005-06's media record, these cases of disappearance brought to light the inadequacies of the judiciary and their shallow process because the superior courts could offer no relief if the agency or force named as respondents denied the arrest or detention of the missing persons.

The Amrit Singh report identified 136 people who were held or transferred by the CIA and described what was known about when and where they were held. It added new detail about the handling of both, Al Qaeda operatives and innocent people, caught up in the global arena of counter-terrorism. Many prisoners were subjected to extraordinary rendition — transferred from one country to another without any legal process — and sent to countries where torture was a standard practice.

Such operations remained the subject of fierce debate, with former Bush administration officials asserting that such intimidations were valid to keep the country safe and critics saying the brutal interrogation techniques were illegal and ineffective. The debate was renewed later with the release of the movie *'Zero Dark Thirty'*, which portrayed the use of torture in the hunt for Osama bin Laden, though intelligence officials denied that was the case. When he took office in 2009, Mr Obama rejected calls for a national commission to investigate such practices, saying he wanted to look forward and not back.

The US Senate Intelligence Committee once completed a 6,000-page study of the CIA detention and interrogation program, but it remained classified. Amrit Singh, the author of the *Open Society report, 'Globalising Torture'*, said she had found evidence that 25 countries in Europe, 14 in Asia and 13 in Africa lent some sort of assistance to the CIA, in addition to Canada and Australia. They included Thailand, Romania, Poland and Lithuania, where prisoners were held, but also Denmark, which facilitated CIA air operations, and Gambia, which arrested and turned over a prisoner to the agency. The report held that:

"The moral cost of these programs was borne not just by the US but by the 54 other countries it recruited to help".

Michael V. Hayden, the former CIA Director, held that few voices had called for restraint in the panicky aftermath of 9/11 but we were often and bitterly accused of not doing enough to defend America when people felt endangered; and then as soon as they made people feel safe again, they were accused of doing too much. However, Amrit Singh said in the report that the United States had flagrantly violated domestic and international laws and that its efforts to avoid accountability were beginning to break down.

In December 2012, the European Court of Human Rights found the CIA responsible for the torture of Khalid el-Masri, a German citizen abducted by the agency and taken to Afghanistan in a case of mistaken identification. About two months later, an Italian Appalant Court convicted a CIA Station Chief and two other Americans for kidnapping of a radical cleric taken

from the streets of Milan in 2003 and sent to Egypt; twenty three [23] Americans had previously been convicted in such cases.

CRISIS IN PAK-JUDICIARY [US REPORT]:

Referring to a report titled as '***Crisis in Pakistan's Judiciary***' released by the ***US Library of Congress***, in 2006, the Human Rights Commission of Pakistan (HRCP) issued a 340 page report stating that a large number of persons, and growing at an 'alarming rate' had been picked up by intelligence agencies and taken to be detained in secret locations. Some of them were handed over to the CIA and flown to Bagram, Afghanistan and later shipped off to Guantanamo Bay.

Through this report ***the Americans openly admitted*** that the cases of forced abductions by the Pakistani state first began arising in 2001, in the aftermath of the United States invasion of Afghanistan and the commencement of the US-led War on Terror. Many of the missing persons were activists associated with the secular and nationalist movements going on in Balochistan and Khyber PK provinces allegedly financed & guided by the western powers through Indian secret agency RAW. Gen Musharraf, the military ruler of Pakistan [1999-2008] went on record to suggest that the '*jihadis*' and not the intelligence agencies were responsible for their disappearances.

Justin Huggler, the ***Asia Correspondent***, while commenting on Gen Musharraf's staunch speech at one British Government's official night dinner, told in his essay titled '***President's boast undermined by human rights violations***' published on ***30th September 2006***, that:

'In a derogatory report into reality of the situation in Pakistan..... several cases in which Pakistani security forces detained innocent people and sold them to the US as suspected "terrorists" for cash rewards are detailed, as are their subsequent flights to US detention centre at Guantanamo.

The US typically offers \$5,000 for a captured "terrorist". Children, as young as 10, are sent from Pakistan to Guantanamo where they face torture and other forms of abuse.

Moazzam Baig, a British citizen who was abducted from his home in the Pakistani capital, Islamabad, at gunpoint in January 2002 by Pakistani and American forces, was handcuffed and a hood was put over his head. He was thrown in the back of a vehicle and driven to a private house where he was interrogated by Americans. After some time he was taken to Guantanamo where he was tortured. He was released without charge last year.'

It was not just the rate of 'disappearance' from Pakistan that worried human rights groups, the actual hard luck was that most of the people handed over to the US authorities were not terrorists at all. They were captured by the agencies, civil and military, just to get cash prizes for each by drafting bogus charge sheets.

Americans might know the truth but the money was paid against those innocent people so had to go through the mill at Guantanamo. Time would tell that whether the whole game was played by the ISI as had been alleged or other law enforcing agencies were also involved and to what extent. No one knows that how many of them were picked up under personal rivalries, family feuds, business compromises and so on.

The Asian Human Rights Commission on Pakistan, too, backed it stating that '***some 600 persons are believed to have disappeared during this year [2006] following their arrests by the law enforcement agencies.***' The HRCP Chairman, Asma Jahangir, filed a petition on behalf of the families of missing persons in the Supreme Court of Pakistan. The Supreme Court, which maintained subdued silence in the past in such cases, took up the

missing persons case when the CJP constituted a bench for hearing and sent notices to the Attorney General and the Ministry of Interior for filing detailed replies; both did not take it seriously. Finally, at the hearing **on 10th April 2007**, the DAG in frustration stated before the Court that:

'It's a very sensitive case and I am completely helpless. All I can do is to contact Interior Ministry and that I did. But they didn't give me any information about the whereabouts of those missing people.'

After five hearings since December 2006, no clue as to the whereabouts of the missing persons was given to the DAG. The apex court held that crisis in the country was due to the non-enforcement of the Constitution. *'I have sentiments, too, being a father, a brother and a husband and feel the difficulties of the families of the missing persons'*, the Deputy Attorney General conceded.

Referring to the **'Asian Human Rights Commission Report'** of February 2008, the veteran senior lawyer Munir Malik was once asked that *'the Supreme Court was getting in its way of fighting terrorism. We all know that the problem of terrorism is there and that the executive needs certain powers or a certain space to deal with this extraordinary issue. How should we fight terrorism, and how can the judiciary contribute?'*

Mr Malik had urged that the executive should not shift the entire onus to the judiciary. He conceded that citizens' rights could be balanced against the interest of state security; but where the balance line be drawn and who would draw it? It could only be drawn by the parliament, and then the executive would implement the law. To decide whether the executive transgressed the law would be the judiciary's function. Malik added that:

'In England they had been the same problem, but their parliament enacted a law, they had adopted specific regulations after 7/7. Pakistanis, on the other hand, haven't been able to define terrorism yet. What is terrorism & what is a terrorist act? Al-Qaeda is a state within a state and it has to be dealt with.'

'In state terrorism, the state uses its coercive power to repress its citizens. Supposing the state picks you up on a charge of national security, your family have a right to know that they have you in their custody? The state must account for persons.....'

Referring to **'the News' of 16th September 2008**, Pak-Army's former Chief of General Staff [CGS] Gen Shahid Aziz had made open the whole scenario of the 'missing persons' at the hands of ISI or other military establishments. He told that:

"In my capacity as CGS, I was aware of the Pakistanis which were handed over by us to the US; I could only respond that the militant prisoners taken by the Army were handed over to the ISI for interrogation. Beyond that is not in my knowledge.

It was much later that one read of Pakistani prisoners in Guantanamo Bay, and yes we all felt very bad about it. However, if ISI was involved in their handing over, it was certainly in violation of the government policy. A team led by an Army colonel visited Guantanamo to find out if any Pakistanis were imprisoned there and to arrange for their release and return to their homes.

Likewise, the cooperation with the CIA, through the ISI, did provide the Army useful information regarding the presence of foreigners in FATA; it also included drones flown over FATA for intelligence purposes."

THE COURTS CONTINUED CRYING:

Referring to the '**Dawn**' dated **6th January 2010**, a Supreme Court judge held that '*the missing persons issue is more serious than NRO.*'

During the missing persons case hearing that day when Advocate Hashmat Habib requested the apex court to summon heads of the Military Intelligence [MI] and the Inter-Services Intelligence [ISI], Justice Javed Iqbal said that last time when '***we tried to summon them we were sent home for almost 16 months***'. Moving scenes were witnessed in the courtroom when Mrs Amina Masood Janjua regretted that there was silence despite the fact that witnesses were ready to help locate her husband, Masood Janjua.

Justice Javed Iqbal remarked that individuals taken by intelligence agencies were considered as missing persons and the military's role was in their view. The esteemed judges added that:

'There is always a mention of brigadiers and majors; who have given them power? Frontier Corps has no rights to arrest and detain any person. There is a Gestapo-like reign of terror...anyone can come into a house, where is the enforcement of law?

'Incidents involving hundreds of missing persons have been reported to this court in the past four years. Relatives of the missing allege they were picked up by intelligence agencies.'

However, the apex court's voice again lost in vacuum.

In the 3rd week of February 2010, a bench of the Supreme Court of Pakistan [comprising Justice Javed Iqbal, Justice Sair Ali and Justice Tariq Pervez] held that it would not examine evidence against intelligence agencies in the missing persons' case; further saying that evidence and allegations of involvement of intelligence agencies in abducting people would be examined by an '*appropriate forum at the relevant time.*'

The four-page order noted that police officials had expressed their inability to make further probes in certain cases regarding the missing persons' due to alleged involvement of various intelligence agencies.

Extracts from a report appeared in '**the Independent**' of UK dated **18th March 2010** is being placed below to reflect an image of a senseless country named Pakistan:

'Up to 8,000 of Pakistan's missing citizens, men, were mostly seized from their homes by cops and soldiers on the orders of spies and intelligence agents and Americans since Nine Eleven 2001. In Lahore alone, there are 120 "torture houses" just for the missing of the Punjab. Their shrieks of pain from the basements could be heard by residents [around].

..... "They" is the Inter-Services Intelligence. "They" is military intelligence. "They" are the Americans – according to the few "disappeared" who have been released during torture sessions. [Around them] US soldiers are observed in Pakistani uniforms – sometimes female American soldiers dressed in the uniforms of Pakistani military paramedics.

So far, the Supreme Court and the Lahore High Court have squeezed around 200 detainees out of the maw of the country's security apparatus – those, that is, who were still in Pakistan. Many are known to have been freighted off to the tender mercies of the Americans at Bagram in Afghanistan, where Arab detainees have long ago testified to being beaten and sodomised with broom sticks. There have been prisoner murders, too, in Bagram, the jail that President Barack Obama refuses to close.

All of the 200 got released had been tortured. Initially, it was very ruthless – they were not allowed to sleep; there were beatings and thrashings; they were hanged upside down. There were actual torture rooms where the things were done to them.

The questions they were asked were repetitive; where are the guns? Where are the weapons? Where is Mullah Omar? Sometimes taken for questioning to Islamabad; Interrogated by foreigners – they were English-speaking; not sure they were Americans or British.

The DHRP files show that there are 1,700 missing from Balochistan alone. At least 4,000 appear to be in the hands of the Pakistani interior ministry, while 750 of the missing Pakistanis were believably taken by the Americans – illegally, of course – to Bagram, the Policharki prison outside Kabul, or to Herat in western Afghanistan.'

During May 2010, families of the missing persons gathered before the Parliament to lodge a protest collectively against the government, army and the higher judiciary. ***In this protest, the then Opposition Leader Ch Nisar Ali Khan and Dr Firdaus Ashiq Awan, a Federal Minister, were also sitting with the families to show their solidarity with the aggrieved ones.*** In this sit-in, one media member named Shakil Turabi raised issue of his own lost son. The Chief Justice of the SC took *suo moto* notice of Mr Turabi's missing son next day.

Some anchors and columnists then named Hamid Mir in the abduction & murder of Ex-ISI officer named Khwaja Khalid and dragged him in the criminal case through an audio tape in which Hamid Mir was purportedly talking with two 'kidnapers'. A petition was moved in the Police HQ from Khalid Khwaja's son pleading that his dad was kidnapped and sent to North Waziristan by Hamid Mir, the anchor & journalist.

One section of media, however, maintained that Khwaja Khalid had himself gone to North Waziristan in March 2010 along with one Col Imam of the ISI and an English journalist named Asad Qureshi; he was murdered there in April 2010. Six minutes video of Col Imam's killing by Taliban Commander Hakeemullah Mehsud is available on internet media and the experts have termed it '*genuine*' by all means.

UMAR CHEEMA 'NICELY BRIEFED':

Referring to the '***New York Times***' dated ***25th September 2010***, Umar Cheema, the staff reporter of 'the News' since 2007, was on his way home from dinner ***on 4th September 2010*** when men in black commando garb stopped his car, blindfolded him and drove him to a house on the outskirts of town. There he was beaten and stripped naked. His head and eyebrows were shaved, and he was videotaped in humiliating positions by assailants who he and other journalists believe were affiliated with Pakistan's powerful spy agency.

At one point, while Umar Cheema was laid face down on the floor with his hands cuffed behind him, his captors made clear why he had been singled out for punishment: for writing against the government. '*If you can't avoid rape, enjoy it,*' one taunted him. His ordeal was not uncommon for a journalist or politician who crossed the interests of the military and intelligence agencies in Pakistan. What makes his case different was that Mr Cheema had spoken out about it, describing in graphic detail what happened with him, something rare in a country where victims often choose, out of fear, to keep quiet.

'I have suspicions and every journalist has suspicions that all fingers point to the ISI,' Mr Cheema told. In response to an e-mail for comments, the official stance of the ISI came, '*they are nothing but allegations with no substance or truth.*' [then what; the tone expressed]

[Some of his fellow journalists kept the view that Mr Cheema was targeted not as a normal journalist only but being a 'suspected American pin' as he had won a Daniel Pearl Journalism Fellowship in 2007 and had worked in 'The New York Times' news-room for six months.]

Mr Cheema had written till then about 50 articles in 2010 that questioned various aspects of Pak-Army's conduct and of the government, including corruption accusations against President Zardari, however, three articles in particular, made the military angry. One reported article was on the sensitive issue of the courts-martial of two SSG-elite commando squad who had refused to obey orders and joined the assault on Red-Mosque Islamabad event in July 2007.

In an article of early August 2010, Mr Cheema described how Army House, the residence of the Army Chief, was protected by 400 city police officers and not by the army soldiers, as required by law. In another article, he wrote that the suspects in a major terrorist attack against a bus carrying ISI employees [*perhaps referring to RA Bazar RWP's incident*] were acquitted because of the 'mishandling' of the court case by the ISI.

[Apparantly ISI was not at fault. In Pakistan, not even a single case of suicide bombing or terrorist attack has met with success during the last 13 years because the police could never investigate any case sincerely & professionally; and where some case was worked out, the coward judges never punished any culprit; lack of evidence has invariably been used as an excuse by all courts.]

Punjab's Law Minister, Rana Sanullah Khan, said that in 2003, when he was an opposition politician and had criticized the army during Gen Musharraf's rule, he was kidnapped and brutalized in a similar manner.

In January 2010, in Islamabad, the home of one Azaz Syed, a reporter for daily the 'Dawn', was attacked by unknown assailants days after he was threatened by some spy agents over an investigative article he was researching related to the military.

Kamran Shafi, a leading columnist and himself a former army officer who writes critically of the military, was harassed and his house was attacked in December 2009 by '*elements linked to the security establishment*,' according to his own account.

Whether a plus point or not, Pakistan has developed a vibrant news media spearheaded by round the clock television news channels in the last decade. The military and the ISI, however, were always treated with respect invariably by all TV anchors and by print media reporters who admired the Pak-Army in battling the Taliban; but the black sheep are everywhere.

Also one reason for such reverence and respect was that the agency kept most of the anchors and journalists on its payroll. Unspoken rules prevailed amongst both sides. A journalist who trespassed over the given line was 'told & briefed' to behave. Earlier that year [of 2010], Mr Cheema was initially called to a coffee shop in Islamabad by an ISI officer and was 'properly briefed', but he did not 'behave nicely' thus suffered.

During the 2nd week of April 2011, while hearing the 'missing persons' case, Justice Javed Iqbal reiterated it was government's responsibility to recover these people. Till then 222 missing persons had been traced due to the apex court's efforts. Justice Raja Fayyaz asked why this issue had not been raised in the parliament till then and also that complete details of the dead bodies found so far should have been submitted there too.

The apex court apparently went impotent on this issue but, just to satisfy its ego, it directed that home ministers of all the four provinces and federation to appear before the court on the

next hearing. What the home ministers [in-charge of respective poor local police] had to reply or explain before the apex court except for coming, going and sitting on benches outside the court room while adding millions of travelling expenses to the public expenditure. What else the apex court could do – by the way; it has been the routine practice of the 'independent judiciary' of Pakistan since about a decade.

On 29th June 2011, the Supreme Court was informed that missing persons — Masood Janjua and Faisal Faraz— had been killed by the al Qaeda six years back.

[Masood Janjua was 44 when he "disappeared" on 30th July 2005. He ran an IT college and a travel agency, father of three then; he just never came home. Nobody saw what happened but his wife, Amina Janjua still believes, and has cogent evidence, that he is still alive.]

Allegedly Masood Janjua was inside a cell at 111 Brigade barracks. There was evidence that those "disappeared" were moved around, between barracks and interrogation centres and underground torture facilities in different towns and cities. Amina Janjua was determined to get her husband back so she turned to the '**only brave institution still fighting in Pakistan: the lawyers and the judges and the courts**' as the **daily 'Independent' of UK** cited above had observed.

On 29th June 2011, the Additional AG KK Agha told the 3-member bench headed by Justice Javed Iqbal that the data gathered from laptops in possession of Janjua and Faraz showed their links with al Qaeda. Amina Masood Janjua [*an intelligent painter and interior designer belonging to middle class*], wife of Masood Janjua and chairperson Defence of Human Rights, had demanded that '**their [the two mentioned above – Masood & Faraz] graves should be identified**' and DNA tests be carried out to determine their identity, if they were really dead.

The government was found lingering on action against those FC personnel who had been identified by six of the missing persons' families, accusing them of taking away their loved ones; no action was taken against the FC personnel till then. The apex court went more disturbed to hear that one MNA Fazal Rab Pirzada had gone missing few years back but no clue since ever.

During the first week of August 2011, the Supreme Court bench comprising Justice Shakirullah Jan, Justice Jawwad S. Khwaja and Justice Sarmad Jalal Osmany, heard more complaints about forced disappearances, and asked the government to complete the composition of the Commission of Inquiry on Enforced Disappearances within one week; the post of its chairman was vacant since its former head Fazalur Rehman from Balochistan had relinquished the post after becoming member of the Election Commission of Pakistan.

Justice Khwaja asked the Additional AG that '*what should the court do if someone from intelligence agencies appeared before the court but did not admit about picking up a certain person. The judge observed that it was the main concern of the court to sit here with a clean slate. Even picking up a man by police is a big issue for us.*'

The additional AG informed the court that [till that day] out of 392 cases, 104 people had been traced while 96 did not fall under the category of missing persons and 138 people, including 10 chronic cases, were still untraced.

On 19th August 2011, a UN delegation, under Rupert Colville of UNHCHR approached the government of Pakistan with a concern to investigate numerous killings and abductions, particularly of journalists. The UN had come there with reports on the killing of one journalist Munir Shakir in Balochistan on 14th August 2011, and the disappearance of another journalist Rehmattullah Daparkhel on 11th August from North Waziristan. The HRCP held that in almost

all cases of violence against journalists in the last few years, those responsible were never identified.

Shakir was shot dead after covering a protest organized by a Baloch separatist organization. Irshad Mastoi, the Bureau Chief for the *Online News Network* where Shakir worked, told that the killing was linked to professional journalistic job and nothing beyond. The whereabouts of Daparkhel, kidnapped on 11th August, went unknown though, as it is widely believed, that *'local journalists have to do the job of the police and investigate on their own using their contacts.'*

At least 48 journalists have been killed in Pakistan in last ten years and 35 of them were deliberately targeted and murdered because of their work. In 2012 alone, six journalists were killed in the country. Of the 48 journalists killed in the line of duty during these 11 years, 14 were from Khyber PK, 12 from Balochistan, 9 from Sindh, 8 from Federally Administrated Tribal Agencies (FATA), 3 from Punjab and 2 from the federal capital, Islamabad. Of 48 journalists killed, 25 were shot and 9 abducted before murder.

ISI ADMITTED 4 DEAD OUT OF 11:

On **31st January 2012**, The Supreme Court came down hard on the ISI and MI Chiefs and ordered immediate production of 11 suspects picked up by intelligence agencies for their alleged involvement in the October 2009 attacks at GHQ and ISI's Hamza Camp in Rawalpindi.

The 11 prisoners 'disappeared' from outside Rawalpindi's Adiala Jail the day they were acquitted of terrorism charges on 8th April 2010. The two spy agencies had conceded before the court that the prisoners were in their custody, claiming that they were recovered from terror camps. Four of the prisoners were later found dead in mysterious circumstances outside the Lady Reading Hospital in Peshawar.

At a hearing during ending 2012, the spy agencies' counsel told the court that four of the prisoners had died but the others were no longer in the custody of intelligence agencies and had been handed over to the Khyber PK government.

The apex court inquired that how four of the prisoners were killed and left by a roadside; certainly not enough for the spy agencies to reject as 'wild allegations'. Especially since — given the confirmation that four of the prisoners were dead — there appeared to be a breach of Articles 9 (security of person), 10 (safeguards as to arrest and detention) and 10A (right to fair trial) of the Constitution.

During the last hearing on 22nd January 2013, a 3-member bench of the apex court, headed by the CJP Iftikhar M Chaudhry, ISI's counsel Raja Irshad could not forward any cogent reason for keeping the remaining seven persons in illegal custody. However, the whole case remained confined to the academic discussions.

In Pakistan, the issues pertaining to 'missing persons' always remained significant. It concerns not only the rights of the missing persons themselves but also of their families who are in agony because of the inexplicable disappearances of their loved ones. The SC has been hearing cases on missing persons since 2006; the matter has been taken up by several national and international human rights bodies and has also received extensive media coverage; but of no avail.

Despite this, there were incidents where dumped bodies were found and there was no one to answer for what really happened. Instead, the spy agencies' counsel suggested that the court could appoint private commission to meet the prisoners in the hospital because they could not be produced before the court.

Another parallel case was being heard in Peshawar High Court [PHC] on the same issue of 'missing persons' but the point to ponder was that if the **'persons all over Pakistan were only picked up by the two military spy agencies'** and no other political faction, religious extremist groups, IB or Special Branch of Police, Pakistani or Afghan Taliban, criminal mafias for ransom, Black-water or XE workers or Indian RAW agents in-filtered in border areas of Khyber PK and Balochistan provinces were not involved; **why putting the guns on Pak-Army's shoulders only.** However, again this aspect had to be looked into by the two military agencies seriously to clear their position.

On **1st February 2012**, the CJ Peshawar High Court (PHC) Justice Dost Muhammad Khan warned that criminal cases would be registered against the heads and officers of intelligence agencies if forced disappearance of citizens weren't halted and legal procedures not adopted for detained missing persons. He issued the warning in the case of two missing students when the Judge Advocate General [JAG] of the Pakistan Army, Colonel Noor Muhammad, and Deputy AG, Iqbal Mohmand, expressed ignorance about the whereabouts of the students.

At the previous hearing, the agency education officer and principal of the school had submitted to the court on oath that the students were indeed taken away by the security agencies. Said Nazeem and Ajaz, students of Grade IV and V respectively, were **picked up from Government Primary School**, Lali Jan Killay in Bara Tehsil on 1st January 2010.

Earlier, on **13th October, 2011** another bench of the Peshawar high court had passed an order in the said missing students' case and had directed the respondents, including security agencies, to produce the students before the court within 15 days. The CJ PHC had observed:

This is too much. this attitude will force the court to order registration of cases under Sections 365 (kidnapping) & 342 of PPC (Pakistan Penal Code) against the ISI, MI and IG FC. Don't force the people to come out on the streets against you as it will be dangerous for you and the country as well.

I have ordered sub-ordinate judges not to go internment centres [of army] for granting custody of the prisoners. It is a fact that security forces have rendered sacrifices in the war on terror, but their excesses are not tolerable.'

In routine, under-trial prisoners arrested on terror charges used to be handed over to the army while thousands were already languishing in illegal detention. The Frontier Corps had submitted before the court that no missing student was in the custody of any security agency under FC.

In another missing person's case the PHC bench directed SP Peshawar Cantt Mian M Saeed and ASP Cantt Faisal Shehzad to produce the missing person within 14 days or face registration of FIR under Section 365 PPC.

RADICALIZATION IN PAK-FORCES:

One Major (Rtd) Osaid Zahidi had served in the Military Intelligence [MI] for almost nine years, got retirement in 2008 but then went missing since 15th October 2010. The media claimed that some eye witnesses had seen uniformed men chasing him in Gulshan Chawranghi Karachi. His family doubted that he had been picked up by intelligence agencies.

Osaid's elder brother, Junaid Zahidi, a former Union Council Nazim from Jamaat e Islami [JI], started looking for him and learnt that his brother was in 'safe house' of the country's security agencies in the Malir Cantonment. Junaid moved a bit further to collect evidence in that regard but, six months later, his [Junaid's] body was found in the limits of the same Malir Can-

tonment. Junaid's friends later revealed that he had received threats to back off from finding his brother. The Zahidi family lost two men and their 11 children were robbed off their future.

Osaid's wife Adeela could only get her husband's name included in a petition on missing people filed at the Supreme Court. Adeela described her husband not as an 'extremist' but one who opposed '**US intervention and interference**' in Pakistan.

The appearance of seven victims of enforced disappearances in the Supreme Court in early February [2012] afforded the Karachites some hope, but their condition – described as being sick, emaciated and bewildered – depressed them. One victim's mother suffered a heart attack after witnessing her son's appearance.

In Pakistan's way of fighting terrorism, the danger of radicalisation is exposed across all sections of the society. Major Zahidi was perhaps persuaded by the militants to help them during his counterterrorism assignment. Here, only a scientific probe could lead to determine what motivated state functionaries to join the cause of the militants, if at all, it was the case.

Referring to ***the 'Dawn' dated 26th February 2012:***

'The phenomenon of radicals penetrating the security apparatus has caused jitters. The detention [later conviction] of Brig Ali Khan for suspected links with the banned Hizbut Tahrir was also seen as an example of the growing influence of the radicals.

Gen Musharraf had also once stated in 2004 that some junior army and Pakistan Air Force (PAF) personnel had links with terrorist organisations. Later, 57 PAF personnel were arrested in connection with an attempt on Musharraf's life; some of them were convicted too.

Dr Usman [known in militant's circles as Dr otherwise not], the mastermind of the October 2009 attack on military headquarters [GHQ] in Rawalpindi, was a deserter from the army's medical corps. In Lahore a policeman who had established links with Al Qaeda was assigned VVIP duty with Punjab's Governor Salmaan Taseer who ultimately killed him in January 2011.'

A study by the Pakistan Institute for Peace Studies (PIPS), an Islamabad-based think tank, on detained militants to identify what motivated and inspired them, is hereby quoted here as reference.

The murder of a Sindhi nationalist leader Muzaffar Bhutto in mid-May 2012, one of the prominent victims of enforced disappearance in Sindh, [*and the brazen attack on a peaceful political rally in Karachi on 22nd May 2012 that claimed at least 16 lives*] once again manifested the violent suppression of political debate pushing Sindh into Balochistan-style mayhem. Muzaffar Bhutto, Secretary General of Jeay Sindh Muttahida Mahaz (JSMM), had gone missing since February 2011 and then his dead body was found near Hyderabad with a shot-wound in the head and torture marks on the body. The family alleged involvement of state agencies as Mr Bhutto was neither a terrorist nor a criminal.

The HRCP had till then verified about 41 cases of enforced disappearance in 'interior Sindh' since November 2010; 26 people were traced out and released but 15 remained missing; these missing individuals were mainly the political activists from Badin. The courts were not able to take note of the disappearances nor the police bothered to record statements of those who had come back from captivity with a view to bring the perpetrators to justice.

COMMISSIONS & COMMITTEES – NO RELIEF:

On 5th June 2012, Pakistan's human rights activist Asma Jahangir claimed that the country's top security agency [ISI] plotted to murder her. In an exclusive interview with Shamil Shams of DW, Asma J told that:

'I am a very responsible person, and I do not usually make these kinds of allegations. My sources are extremely reliable. It is true that I have been critical of them [Army & ISI] but I am critical of their policies, which I do not agree with. As a lawyer in the missing people's cases I hoped that there would be a change in the mindset of the establishment, which unfortunately doesn't appear to have happened.'

Replying a question [*that do you think the ISI and other security agencies could kill an internationally renowned person like you*], Asma quoted history of Pakistan when prominent people were killed; the difference between Pakistan and other countries was that in Pakistan nobody ever knew who was responsible for those murders. She sent a very clear message to the PPP government that *'they are the ones who are responsible for my protection'*. Some protection was provided but not sufficient.

There was an attack on her in 1995 too when some persons tried to kill Asma Jahangir inside her house. Subsequently, some people were arrested and there was a trial. She said before the court that ***'there is a nexus; the agencies may not have connections with all groups, but they used a lot of these groups'***.

On 2nd October 2012, the SC - appointed commission on missing persons disclosed that 80 more cases of disappearance had been reported to it during the past three months. The announcement contrasted sharply with a claim government made a month earlier during their meetings with UN mission on enforced disappearances that the number of such incidents had dropped over recent months.

At the end of their 10-day official visit to Pakistan a month earlier, members of the ***United Nations Working Group on Enforced or Involuntary Disappearances*** talked about 'serious challenges' and said in a news conference that:

'There is acknowledgement that enforced disappearances have occurred and still occur in the country. We note that cases continue to be reported to the national authorities. But there are controversies both on the figures and on the nature of the practice of enforced disappearances.'

The latest figures released by the two-member Commission of Inquiry on Enforced Disappearances, headed by Justice (retd) Javed Iqbal, show that 539 cases of missing persons were under investigation before 30th September 2012. On 1st January 2011, there were 138 cases pending before the Commission and had received 714 new cases during the past 21 months, increasing the total number to 852. By 30th June 2012 the total pendency with the Commission was 772 and 80 cases were added during the previous three months.

The said Commission set up under the Supreme Court's new directives had disposed of 313 cases till then; it had succeeded in tracing 27 persons during one month of September when it held its proceedings in Islamabad but the government remained silent about the places from where they were found and the identity of their captors.

Speaking at a news conference in June in Quetta, Justice (retd) Javed Iqbal had held foreign intelligence agencies responsible for the deteriorating situation in Balochistan, claiming that there was concrete evidence against them. He had also expressed regrets over the baseless propaganda about the actual number of missing persons in the country.

On 8th January 2013, the Parliamentary Committee on National Security (PCNS), headed by PPP's Senator Raza Rabbani, which had taken up the lingering issue of the enforced disappearances about four months earlier, issued 15 recommendations.

It was all an exercise in futility as the recommendations made were of advisory type, mainly the 'dos & do nots' already available in editorials and columns of all newspapers AND mainly the same concerns & instructions had repeatedly been conveyed by the higher courts in all their hearings since six years. For example, the recommendations were like:

- *'strict action should be taken against the officers or agencies doing wrong';*
- *'that all training institutes of the army, intelligence agencies and police should be administered in accordance with the law';*
- *'the government to announce immediate prison reforms';*
- *'to take measures to provide knowledge of fundamental rights to its police trainees';*
- *'that no action be taken against officials who present the missing persons in court within the stipulated time';*
- *'a person's arrest by any agency or department must be in accordance with Article 10 of the Constitution';*
- *'that activities of intelligence agencies must be regulated';*
- *'that the chief justices of the Supreme Court and High Courts form special benches in their respective courts to hear the cases of missing persons';*
- *'that the government should enter the names of those arrested in a computerised register within 24 hours of the arrest';*
- *'that the arrested individual should be informed about the sections used against him or her within 24 hours of the arrest.*
- *'That strict action in accordance with the law be taken against officers who detain people illegally'.*

In nut shell Raza Rabbani's Report was all an exercise to make fool of the poor nation once again; the report was not considered by the parliament, by any agency, by any department and not even by the media to be commented upon.

GIMMICKS STILL ON:

The question remains that how many persons are actually missing. The law enforcement agencies and intelligence services held that the true figure of the missing persons was much less than had been propagated at different levels. The main plea was that from the given list of missing persons:

- How many individuals joined a particular cult or *Jihadi groups* or national movements and did not return home?
- How many of them had preferred to become suicide bombers.
- How many victims of bomb attacks whose bodies could not be recognized were included in the missing persons' list?
- What about those who died far from their homes and information of their death is not known to their kins or family?

- Are some proclaimed offenders and people running away because of family disputes and shifting to other cities without informing their kins also included in the list?
- What about those who kept links with different terrorist organizations and were working for them in far-flung areas of FATA or the Khyber-PK?
- Some of the missing persons could have gone abroad and living there on fake names because of their asylum problems.
- Many of the terrorists if killed in action by law-enforcement agencies are normally buried secretly by their accomplices and since their families do not know anything about it.

Referring to '***the News' dated 9th March 2012***; no NGO has ever claimed that they worked on the above lines to reach a factual list of missing persons. *In the year 2008, during the initial hype of this issue, some 2,390 persons were propagated as missing whereas through detailed scrutiny, the actual figures came down to 392 persons.* Cases of those 392 missing persons were handed over to the first Judicial Commission, which by the end of year 2010, had traced 134 missing persons.

The second judicial commission was formed in March 2011 and 445 cases (including 138 in balance) were given to it. Out of these cases, 142 missing persons were traced out till March 2012. The stakeholders could have worked together to identify the true number of actually missing persons at the hands of agencies, as it has been blamed since years.

Contrarily, the missing people's case, lingering on since seven years is still alive in Supreme Court's record with no cogent progress in fact. The SC was informed ***on 16th July 2013*** that the United Nations Working Group on Enforced Disappearances in Islamabad would extend cooperation to the Pakistani police regarding the investigation in a case of enforced disappearance.

The apex court on that day had discussed the case of a missing person, Mudasir Iqbal, which was registered by the Commission of Inquiry on Enforced Disappearances (CIED) on the initiative of a UN team. According to the UN team, several people had seen Mudasir Iqbal detained at a secret detention centre.

During proceedings it was objected that how the police could be allowed to proceed against army officers as no law existed in this regard. Chief Justice Iftikhar M Chaudhry, heading a 3-member bench, observed [once more] that it was high time to probe why the allegations were being levelled against spy agencies.

The MI's counsel contended that no FIR could be registered against armed forces officials; they are dealt under Army Act 1952.

[In this case, the Attorney General of Pakistan (AGP), while appearing on 12th July, had stated that there was no provision in the Army Act, Criminal Procedure Court and Pakistan Penal Code that bars initiating legal proceedings against the serving army officers. He also said that there was no immunity to armed forces in matters related to the fundamental rights.

Justice Jawwad S Khwaja, member of the bench, affirmed that the AGP was right as the apex court had already decided this point of law.]

On next hearing ***on 23rd July 2013***, the SC's same bench sought from the federation a comprehensive, meaningful and viable policy regarding missing persons within 10 days.

In nutshell, the governments continued to think on policy formulations and the superior courts kept on crying but – nothing concrete result appeared. The case has already taken seven years – no end; let us salute to Pakistan's marvelous judicial system and its judges.

Lastly, **on 27th August 2013**, the Supreme Court of Pakistan [once again] gave Frontier Corps (FC), police and other intelligence agencies two week's time for the recovery of missing persons. A 3-member bench, headed by the CJP Iftikhar M Chaudhry, heard the case pertaining to unrest in Balochistan at SC's Quetta registry. During the hearing, the bench remarked that there was no progress in the recovery of missing persons during the past three years. Till that day there were records of at least 506 people in custody of government agencies, the bench quoted.