

## The Right to Life under Siege: Arbitrary Deprivation of Life and Liberty in Pakistan and the UK

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### Abstract

The right to life forms the foundational core of human existence, encompassing and safeguarding all other fundamental rights. As the Constitution functions as the supreme guarantor of this right, this article critically examines the constitutional provisions of Pakistan and the United Kingdom that protect life and personal liberty. It further presents a comparative analysis of how these states address — or violate — these guarantees. Any arbitrary deprivation of life or liberty constitutes a direct violation of the right to life as recognized under the Universal Declaration of Human Rights (UDHR), the European Convention on Human Rights (ECHR), and the International Covenant on Civil and Political Rights (ICCPR). This study specifically explores instances of such arbitrary deprivations in Pakistan and the UK, assessing whether the states themselves have been complicit in undermining the constitutional protections they are bound to uphold. By comparing the jurisprudential approaches of both countries, the article demonstrates which state has been more effective in preventing violations of the right to life. Ultimately, this research outlines key guidelines and policy recommendations aimed at minimizing future infringements of life and liberty.

**Keywords:** Right to life, Arbitrary depriving of life, Article 9, Constitution of Pakistan, British Constitution

### Introduction:

Right to life is the mainspring of all human rights as every right exists after the existence of this right. It is the inherent right of a human being. It means that no legislation is required to mandate this right. As it's given by nature itself and belongs to a human being by its birth. UK got its concept of human rights after the formation of Magna Carta. The Magna Carta evolved beyond a simple declaration of common law; it became a token in the fight against oppression. Whenever liberty appeared threatened, people went to invoke the charter as their safeguard.<sup>1</sup> Clause 39 and 40 of this charter mandates that: *No free individual or person shall be detained or incarcerated or his property be disposed off or banned or eliminated or in otherwise injured in any way, neither will he be attacked by any one, unless it is made lawful by the judgment of his superiors or by the prevalent law*<sup>2</sup>. In modern world, The UN is the first organization to recognize fundamental right without any discrimination whatsoever.<sup>3</sup> International covenants i.e. ICCPR, ECHR, UDHR, ACHR, CRC, CRPD deliberately protect these rights. This right doesn't depend on the fact whether someone or state wants someone to be alive or not. By offering an arbitrary status to an unfringeable right that is contingent upon subjective opinions of others, selectively denying any member of the human family "right to life" affects everyone's right to live. Everyone possesses right to be free from unjustified killing and not killed by any person. The right to life also demands that any death that is caused by the state or in which it is visible that the state has failed to protect life, be properly and effectively investigated.<sup>4</sup> Pakistan and UK ensure these rights but apart from all their legislations and implementations there are various instances where the states have been found involved in illegally killing the people, and the instances where the states are not directly involved in deprivation but not focused clearly on disproving the violation by turning a blind eye. Research will mainly focus on arbitrary arrests, extrajudicial killings and enforced disappearances and tries to see the steps these countries have taken to minimize arbitrary deprivation and how

much successful they are in doing so. At last, we'll deduce those standards which Pakistan need to make the legislation and its implementation ideal.

### Research methodology:

Research data has been obtained from primary sources like, constitutional provisions of Pakistan and UK as well as the internationally adopted declarations and conventions i.e. UDHR, ICCPR, ICPPED, CED etc. This research material has further been taken from precedential laws, judicial decisions, scholarly articles, international reports and practices and news articles where the violations of arbitrary nature were published.

### Right to life and liberty in legal frameworks of Pakistan and UK:

**Pakistan:** Article 9 of constitution of Pakistan provides that no one shall be deprived of life or liberty but in accordance with law. In "*Niazi Ali vs President Zarai Taraqiyati Bank Limited*" it was held that the term "*life*" used in this article refers to the right to exist, where all essential rights are reserved.<sup>5</sup> In *Rizwan Elahi and other vs Province of Punjab Through Secretary Punjab, Lahore and others* it was held that definition of life in article encompasses all elements of human existence that cannot be limited to just simple existence of living human being. Article 9 provides that a person has the right to explore the natural and ecological beauty of locations such as Murree Hills for enjoying true pleasures of life.<sup>6</sup> Out of all legal rights, right of liberty owes a high value and it must be respected by all and sundry. It includes right to live with dignity. When someone experiences animosity, mockery, or disdain, their dignity is undermined. Dignity includes treating people with respect and refraining from harsh and humiliating behavior, both in spotlight and out of spotlight. Dignity is inherent and God has given each person intrinsic and unalienable right that the state and its representatives should uphold and defend.<sup>7</sup> Children rights to nutrition and healthy well-being are also included in right to life.<sup>8</sup> Article 8 of the constitution protects against the laws which are made inconsistent with fundamental rights and encompasses that no legislation should be done which derogates fundamental rights. Article 10 protects from arbitrary arrest and detentions.

**UK:** It is the constitution of a country which upholds fundamental rights. Constitution is mostly in codified language but what would be the case when the country doesn't possess a codified constitution. Same is the case with UK as it has an unwritten constitution. Generally, codified constitutions are formed after a great and significant historical turning point, as the conquest of independence, any revolution, a military loss, or the total downfall of the prior political regime. The UK has never had such a reason to write and define its constitution because none of these scenarios have happened to it. However, we can found a constitution in UK in the form of treaties, legal bodies, precedents and conventions. These constitutional statues includes, The Bill of Rights (1689), the Acts of Union (1707 and 1800), the Act of Settlement (1701), the Parliament Acts of 1911 and 1949, the Human Rights Act of 1998, the Scotland Act, the Northern Ireland Act, and the Government of Wales Act of 1998.<sup>9</sup> **Article 2 of Human rights Act 1998** provides right to life. This right was taken from article 2 of **ECHR**. The Human Rights Act is frequently regarded as one which has significantly altered the UK constitution. It gives UK courts a novel jurisdiction to apply on institutions whether the departments are complying with rights given by ECHR. Many people say that this act given a stronger and greater power to UK courts and judiciary as it changed the balance of powers.<sup>10</sup> **Article 5** of this act guards liberty and security. Legal security is the position obtained by positive law in which the goods and interests of a human being are guarded in a complete and effective sense.<sup>11</sup>

### Violations of rights to life and liberty in Pakistan and UK:

#### Arbitrary depriving of life and liberty:

The UN has defined the deprivation of life as involving a "*deliberate or foreseeable and preventable life-terminating harm or injury, caused by an act or omission*".<sup>12</sup> Whether seen as a principle of common and general IL or within the framework of international human rights law, the shield against arbitrary deprivation is a pivotal belief attached with right to life. The domain 'arbitrary deprivation' refers to a derogation of the right to life, emerging from ICCPR's article 6, which confirms that no one shall be unlawfully killed.<sup>13</sup> There are main concepts which lead arbitrary deriving of life. It encompasses lack of legitimate and lawful purpose i.e. self defense or saving others from violence, scanty domestic laws to protect life, lack of the sheer need for use of lethal force, un-regulated use of force and ineffective investigation into the case leading to the loss of life.<sup>14</sup> On the other side, arbitrary depriving of liberty signifies a fact when an individual is detained and his freedom is taken away from him beyond the boundaries of nationally or internationally accepted norms.<sup>15</sup> Depriving someone of its liberty is only allowed when there are risks of some danger that is attached to its identity and is only lawful when to protect him from further harm. Sometime states themselves involve in violating these rights in the form of arbitrary arrests, detentions, extra-judicial killings and enforced disappearances.

#### Extrajudicial killing:

Professor Nigel defined extra judicial execution in a quite novel way, according to it, this phenomenon is known as killing outside the legal and judicial parameters but with the assent of public officials, without taking preventive measures of law enforcing departments in order to protect life or as acts of armed combat conducted in accordance with the principles of IHL.<sup>16</sup>

**Pakistan:** There had been several cases of this sort of killing in Pakistan. One of these is the encounter of Nageebullah Mehsud. The lethal shooting of 23-year-old Mehsud, an aspiring and emerging model known for his whimsical swirly dance videos and airbrushed, gelled brown hair, mobilized thousands to protest against impunity. He was shot dead owing to having a so called thought that he was a Taliban insurgent who was on an operation for them.<sup>17</sup> Dr. Sanaullah Abbasi, the AIG of the Counter-Terrorism Department (CTD), informed the bereaved companions, family and natives of Mehsud's tribe on Tuesday that his murder constituted an extrajudicial killing. Abbasi, who led a three-member team probing Nageeb's death, told his family that he was truly innocent and was, in reality, killed in a planned and fake encounter.<sup>18</sup> Another case is of Balaach. Who was 20 years old and was forcefully kidnapped from his home by some officials in ordinary dressing. His family filed the complaint but he remained missing. Her sister Najma told that when he, with police appeared in the court she saw her in the court room and his condition was miserable and was unable to talk. After two days of this meet up she came to know that he had been killed while being in custody.<sup>19</sup> From past recent years, there had been a boost in increased cases of extra-judicial deaths over the suspects of blasphemy. These killings are sometimes in police lock up. These types of cases show collusiveness of police authorities with the religious extremists. Owing to lack of answerability, this phenomenon has been worsened. Officials who are found involved in such killing are not properly prosecuted and in most cases are pardoned. The recent murder of Abdul Ali in Quetta shows another grave example of this. A mob suspected him as accused of blasphemy and wanted to kill him, he was rescued and detained in police custody but he was killed while in custody of police.<sup>20</sup> In June 2024, Dr. Shahnawaz was suspected as accused of blasphemy. A mob claimed that he committed blasphemy and posted such content on social media, to which he surrendered himself to the police and demanded for a chance to prove himself. Provincial minister, Zia ul Hassan claimed that an investigation revealed the fact that he was killed soon after the surrender in a planned faux encounter.<sup>21</sup> According to an article of Human Rights Watch, since September 2009, there has been multiple report of extra judicial killing in Sawat by the militants and police. HRW has researched these violations in Sawat area on the base of 238 killings as reported to it by locals and HPCR. HRW found that the real number of the killings was much greater than the number reported above. Each case's details include dates, place names, and the names or numbers of victims. No preparator has been held accountable by the Pakistan military as of yet. Ali Dayan Hasan, one of the senior researchers at Human Rights Watch said that, "executing suspected terrorist and their loved ones in a cruel way is ruthless, illegal, and marks and awfully horrible counterterrorism technique that just produce more enemies".<sup>22</sup> Higher courts of Pakistan have tried to minimize and negate this custodial and extra judicial killing. Supreme Court in one of its decisions said that, every citizen has the fundamental right to be treated fairly and to have their rights protected by the law upheld; police have no right to degrade civilians. Authorities have not been granted unrestricted and unbridled powers to degrade and hurt citizens without any proof against them. Simply calling someone to the police station without a valid reason and forcing them to sit there without their will is purely a wrongful confinement, and the police must be held accountable.<sup>23</sup> We can't justify extra-judicial executions and custodial death as legitimate and ethical because even habitual criminals have the right to be prosecuted and charged in accordance with law. It is the law which should determine whether the arrested person is a terrorist or a hardened criminal? It is not in executives' authority to consider it by itself and start a killing operation against him. It is up to the court to ensure the fact, whether a person did any wrong or not. Under the law, a true presumption of innocence attaches with an accused which lasts until it's disproved by the verdict of the court.<sup>24</sup> According to HRCP's 2023 report, in year 2023, almost 618 people were killed in police encounters, 33 people were killed in custody while 24 were killed outside the custody of police. Almost 13 people were victimized with custodial torture.

**UK:** Human rights acts, 1998 incorporates ECHR's right to life. Article 2 of the act protects life and article 5 protects liberty of the citizens of UK but still the Britain didn't meet the requirements of ideal state where there is no practice of unlawful killing. Case of Jean Charles de Menezes is one of them where he was wrongfully killed. De Menezes was a 27-year-old Brazilian electrician, owing to his "Mongolian eyes," the metropolitan authorities taken him as suspected bomber Hussain Osman, who was born in Ethiopia. Then as an incorrectly identified bomber he was fatally shot by police on a London underground train. An underground spying crew followed De Menezes while he was heading to work. Without any notion of arrest, officer in plainclothes stopped him when he joined a metro in the Stockwell London station. Within 30- seconds, De Menezes was shot seven times in the head and once in the shoulder with a burst of gunfire that startled other passengers. Even three bullets were missed. De Menezes's Parents met the investigation team but they refused to meet the commissioner due his lethal act. Maria Otone de Menezes, De

Menezes's mother, told Aljazeera.net that: *"In my opinion, the chief of police is very wrong. A human being needs to be respected and treated as a citizen in any country in the world."* His family and friends along with some activists launched campaigns for justice at London School of economics and they too got a lot of supports from families of other victims.<sup>25</sup> Family brought the claim to the European court. Although the Metropolitan Police force was found guilty in 2007 of health and safety violations and penalized for putting the public's safety in jeopardy during the shooting, prosecutors chose not to indict any police officers. Then, after the court heard that it had committed "shocking and catastrophic" errors, it was fined £175,000 (\$270,130). But none of officers was prosecuted and penalized. The court's grand chamber, which handles crimes of serious nature, stated that the decision of not charging any specific officers was not due to "lacunas in the investigation or the state's indulgence or cooperation in unlawful acts." In a 13-4 decision, the judges stated that authorities conducted deep and thorough investigation into the matter and "concluded that there was not enough proof against any individual officer who may be prosecuted for that."<sup>26</sup> UK is a Signatory of ECHR that's why the decisions of European Court of Human Rights are binding on it. This court pronounces decisions on applications from individuals or states that claim that the civil and political rights that are outlined in the ECHR and have been deliberately violated.<sup>27</sup> Court has expanded the rights given in ECHR by its decisions and rulings. In *McCann V UK*, the court referred to those military rules in which force can be used by the authorities. According to it, you and your officer are only directed to use force if they have a reason to believe that the person/alleged person is committing an offence or doing an act which is dangerous for lives of others and otherwise a clear warning before firing is necessary.<sup>28</sup> The UK's Special Forces has been found involved in killings in Afghanistan. Here the question arises that, does the right to life only exists for the natives of a particular country? Or whether the law or constitution only considers the natives of its country as "Human"? BBC issued an investigation/report in summer 2022, which stated that the UK Special Forces in Afghanistan constantly executed prisoners and unshielded men on some dubious conditions. These acts constitute war crimes which are very serious in nature and bring individual criminal liability as well as UK's responsibility into question.<sup>29</sup> In a research of UNREDACTED on matter of extra-judicial executions by UKSF units in Afghanistan disclosed that, from 2010 there has been a methodical killing of unarmed 'fighting aged males' throughout the entire Helmand province. Many of these prisoners had been detained by British soldiers and were still in custody at the time. These executions seem to have been a component of an intentional, though unofficial, program by UKSF units, and they clearly violated IHL. 26 operations were found in which Afghans were suspiciously killed. On 6 September 2010, 1 person was killed, from 29-30 November 2010, 1 person was killed, one person was killed on 28 December 2010, on 8-9 January 2011, 2 persons were killed, one was killed on 15-16 January 2011, on 19 January 2011, 3 persons were killed, 6 persons were killed on 24 January 2011, on 7 February 2011, 9 man were killed, on 7 February 2011 there was 1 execution, on 9 February 2011, 8 were killed, on 14 February 2011 there were 3 executions, on 16 February 2011, 4 more were killed, on 5 March 2011, 1 person was killed, on 12 March 2011 there were 8 killings, on 18 March 2011, 4 were killed, from 1-2 April 2011 two persons were killed, on 2 April 2011 one man was killed, on 20 June 2011, 8 were killed, on 27 June 2011 two more were killed, on 26 July 2011 one man was killed, on 12 December 2011, 4 persons were killed, in early July 2012, 3 executions were found from 6-7 August 2012 4 persons were killed, on 4 September 2012 one person was killed, on 18 October 2012 there were 4 killings, and on 10 May 2013 one more person was killed in operation.<sup>30</sup> A UK Special Forces soldier killed four young individuals in an Afghan village on October 18, 2012. As per information from their relatives three of them were kids. Despite the fact that it appeared to be a war crime but no one has been charged and initiated prosecution against.<sup>31</sup>

Upon these allegations the UK government formally launched an inquiry to find out that whether the allegations of UK being involved in unlawful killing the Afghans. This inquiry was initiated in December 2022 on cases brought by the lawyers of the eight families of the victims.<sup>32</sup> Now the inquiry is assessing this matter independently.

### **Enforced disappearances:**

Enforced disappearances is defined by article 2 of ICPPED, according to it: *"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*".<sup>33</sup> Article 5 of ICPPED provides that the worldwide and consistent occurrence of forced disappearances is a crime against mankind under existing international law and it will end up in penalties specified in IL.<sup>34</sup> ICPPED is one of the strongest conventions ever adopted by UN for the negation of enforced disappearances.

History of enforced disappearances takes us back to Nazi era, where the Nazi army was arresting the people without any due course of law. The "Nacht und Nebel Erlass (Night and Fog)" policy was a methodical state tactic that subdued defiance in colonial Europe and created a "chilling effect" amid those living there by depriving people from



legal immunity in order to stop future outbreaks of this kind of resentment. But this didn't end the nazi's downfall but escalated in the whole world.<sup>35</sup>

**Pakistan:** In Pakistan, after 9/11, most of enforced disappearances have started in 2001 and are continued till today. Since 2011, COIED documented almost 10,078 cases of enforced disappearances. Out of these cases, 2,752 cases belonged to Balochistan and 3,485 cases to KPK. Data shows that most of the persons disappearing belonged to the families of human rights organizations and activists.<sup>36</sup> COIED released their data in May 2022 and as per a report of it, since 2011, almost 3,284 cases of enforced disappearances have been cleared, while 2,219 cases of this nature are still pending.<sup>37</sup> According to figures got by AHRC, since 2002, there had been hundreds of disappearances in Balochistan. Same is the case with KPK and Azad Jammu Kashmir. As a result of seizure by intelligence agencies, hundreds of natives of Sindh were declared missing and many were found to be extra-judicially killed. According to some religious groups, military and intelligence agencies were involved in disappearing almost 2000 activists. According to AHRC, it is now a normal practice in Pakistan as the authorities have granted their acceptance to it.<sup>38</sup> Even in mid of year 2024, commission received 197 reports about missing people.<sup>39</sup>

Authorities had been greatly involved in this illicit act. Pakistan's agencies are infamous for their embroilment in enforced disappearances. Many Balochi activists and political leaders are being targeted by this. A victim of this was Zakir majeeb, who was the vice chairperson of BSO. He was very active in politics till he was abducted in 2006.<sup>40</sup> He was with his friends when men in a two cars blocked their way and kidnapped them. The number plates of the cars were missing and they presented them as members of intelligence agency. Zakir's friends were released soon after the disappearance but he was not released.<sup>41</sup> Another issue, which outbreaks after the disappearance of the person, is the harassment of the families of the victims. Concerns have been voiced regarding the mistreatment of family of the disappeared. Relatives are persuaded to dismiss claims or amend complaints to blame "unknown persons" instead of State officials for taking their relatives.<sup>42</sup>

In 2022 from Oct 10 to 16, HRCP started a mission to draw attention of the government towards the demands and issues of Baloch natives, and also to put a full stop on forced disappearances, unlawful killings and to get the legitimate, deserved freedom of press. During this mission, its team dialogued with leading political parties i.e. BNP-M, PPP, HDP, PKMAP. Team also conducted interviews of IG prison and AIG, in Quetta. It also talked with senior team of police officers of Gawader.<sup>43</sup> HRCP also suggested many recommendations i.e. the Balochistan Assembly should pass such legislation to shield the safety and autonomy of the province's journalists, grasp those who are responsible for enforced disappearances, and right away stop the establishment from hampering in Balochistan's political affairs without any cause.<sup>44</sup> Though Pakistan established COIED in 2011, but the results which were demanded from it remained zero. Even ICJ showed its disappointment with Pakistan. ICJ responded this way as: *"This Commission has failed in holding even a single perpetrator of enforced disappearance responsible in its nine years," said Ian Seiderman, ICJ's Legal and Policy Director. "A Commission that does not address impunity, nor facilitate justice for victims and their families, can certainly not be considered effective."*<sup>45</sup> *The right which is ensured by the constitution of the country has been so badly infringed. Even though Pakistan has ratified the UDHR and ICCPR, but still the issues prevail.*<sup>46</sup> *These enforced disappearances often lead to extra judicial killings, torture, inhumane treatment and depriving of liberty. In regard to enforced disappearances, a bill was proposed to add an amendment as 52B in PPC. This section would be defining enforced disappearance. By the way of amendment section 512, 513 and 514 too would have been added, which would have penalize enforced disappearances with a punishment up to 10 years.* But to our hard luck this bill was rejected and didn't get enough voting to undergo legislation. This bill was drafted by PTI government's minister Sheikh Rashid Ahmed. Voting had been made on it but government had to withdraw it owing to the amendment made in it by the senate.<sup>47</sup> That's why enforced disappearances remains like an unending story in Pakistan, outspokenly violating Constitution's article 9, Article 14, Article 10 and Article 4. The reason why it is still prevalent is that the state turns a blind eye towards its duties to uphold constitutional rights i.e. investigating the cases properly, finding the disappeared person, safeguarding rights of victim and its relatives and not upholding their duty to do justice. Leaders and their governments live in delusion that they are entitled to do anything in order to attain the power that's why they use enforced disappearances as a way to do so.<sup>48</sup>

**UK:** The UK has a very minute number of enforced disappearances. The UK government has played a grand role in all times in derogating this heinous act. The UK government, 57<sup>th</sup> HRC at Geneva, in its talk with the WGEID and said that: the United Kingdom firmly denounces all incidents of enforced disappearance, which are blatant abuses of human rights. As we all know, this issue has a long-term impact on victims', their families and the communities they belong, as

well as destroying and eroding the rule of law. The UK also directs all the states to properly investigate the matters of enforced disappearances in order to bring justice to the relatives of the victims'.<sup>49</sup>

But UK has cases of missing persons. Every 90 second a missing person is reported in UK and on yearly base 170,000 peoples are reported to be missing.<sup>50</sup> But missing person does not amount to enforced disappearances influenced by state actors. This missing is due to fear of sexual abuse, mental harm/stress or due to a state of being unhappy at home.<sup>51</sup> Mexican Supreme Courts denounce this act and the decision focuses on the strength of forced disappearances as an illicit act which is a human rights abuse for victims and their families. It further necessitates its prevention.<sup>52</sup>

### **Arbitrary arrest and detention:**

**Pakistan:** Many instances of unlawful arrest and detention are found in Pakistan. This act is not new but continued from the past. Arbitrary detentions are greatly influenced by political parties. The party in authority tries its fullest to disturb opposition party and owing to this consider arbitrary arrests as a superb tool. During the time of conflicts, these detentions are used as tool for political harassment which is further combined with extra judicial executions and enforced disappearances for extinguishing civil liberties.<sup>53</sup> There are many instances of custodial tortures available in Pakistan, which is being done after the arbitrary arrest or detention. *Pakistan ratified CAT, Convention against torture on April 17, 2008. But this ratification didn't bring much change in country's situation as this convention has not been made a part of domestic laws.*<sup>54</sup> *In 2022 Pakistan tried to make this convention a part of its domestic law by introducing an act named, **The Torture and Custodial Deaths Act, 2022.** As mentioned in the preamble the acts showcase its purpose as to make the law for the effectiveness and implementation of this convention. This act has been made to protect a person in custody from all kinds of inhuman and degrading treatments and criminalizing the torture while upgrading the dignity of man as enshrined in Article 14 of the constitution.*<sup>55</sup> *This act has deliberately defined torture, custody cruel and inhuman treatment, custodial death and custodial rape. It too penalized the torture. However, The Act does not fully comply with international torture criteria set by the UNCAT and other treaties and law, including the omission of psychological anguish and suffering. Other flaws include ambiguity in term complaint and investigation procedures, inconsistencies with international law in medical examinations, lack of measures for refusing to return, insufficient investigation initiation, and poor remedies.*<sup>56</sup>

In May 2023, after the arrest of PTI's ex-chairman Imran Khan, there were many protests by the workers. Amidst these protests, police make arrests on mass level and arrested over 4000 people in these protests. Police arbitrarily detained many opposition party members.<sup>57</sup> History has many such examples where it is routine to arrest people without proper authority and violating their fundamental right. Preventive detentions which are legalized by article 10 of constitution, has been used for attaining cunning political purposes. Maintenance of Public order, ordinance 1960 (MPO) has been used as tool to restrict liberties. Governments are using 3MPO as a tool to smash political opponents to establish ulterior motives. 3MPO has given unbridled powers to the authorities. The biggest issue with 3MPO is that it allows the authorities to arrest a person without informing him about the cause of his arrest. Even the DC can arrest the person on just suspicion without any cogent cause and not to let him contest his innocence. Same thing was done with Imran Riaz (journalist) and Aftab Iqbal (journalist) and many other persons. <sup>58</sup> Our higher courts are custodian of constitution but sometimes these look like paper tiger. In certain cases and in true sense state doesn't act upon certain decisions of the court.<sup>59</sup> Which thing is to be followed and which is be left alone, all depends on its personal advantage.

**UK:** UK government condemns arbitrary arrests and detentions. These acts are not casually practiced in UK rather than the Police in Wales and England have given a power to stop and search anyone if they have reasonable suspicion of doing so. In this search, police can inquire people about their names, what they are doing in certain area and where are they going.<sup>60</sup> But this power is not arbitrary. Police is obliged to explain the grounds for doing so. A scheme named, the 'Best Use of Stop and Search' is being followed in 2024. This scheme brought transparency in the search procedure and got involvement of community members in it. It was to bring confidence in police.<sup>61</sup> UK laws also permit preventive detentions when the suspected person is seemed to be dangerous to the community. There are no instances available where UK is practicing preventive detention arbitrarily.

### **Comparative Analysis:**

The comparative analysis of Pakistan and UK show some similarities in violation of right to life but the strength of those violations varies, and also the ways adopted by each country to counter those issues highlight one from other. Both the countries have violated these fundamental rights in one or other way. Research has shown that Pakistan has great influence of authority holders in their legislation and further its implementation is flawed by it. There are extreme cases of extrajudicial killings in Pakistan where the right to life has been absolutely derogated by the state authorities. This act of killing by state machinery amounts to terrorism. Where the complainant's son was forcefully boarded onto the mobile van of police in the midnight and later on he was informed that is son has been killed in a police encounter.

Supreme Court of Pakistan refused the bail of petitioner as its act amounted to extra-judicial execution and terrorism.<sup>62</sup> In regard to enforced disappearances, Pakistan tried to do legislation but due to internal political issues, the bill was rejected for its controversial section 514. On the other hand if we see UK the current status of right to life as guaranteed by Human Rights Act 1998, is very strong for the citizens of UK. There are very less reported cases where the state was involved in violating right to life and liberty. There are no cases of enforced disappearances in UK because UK government strongly condemns it. In regard to extrajudicial exactions, there are reports where the state authorities like, police and Special Forces used lethal force, violating the article-2 and article-5 of Human Rights Act 1998. To tackle this European court has delivered many judgments referring to circumstances where force can be used i.e. *McCann v UK*. Both Pakistan and UK share the same roots but the UK's capacity to adopt reforms and respond successfully in situation of crises lifts its status from Pakistan, where there are serious legislative issues. These discrepancies have significant ramifications for Pakistan's future. The fight for political coherence and timely legislative action impedes the Pakistan's ability to address serious issues such as economic insecurity, social disparity, and public health crises.<sup>63</sup> Pakistan needs to take the robustness and effectiveness of legislation and policies from UK in order run little smoother. US department of States reported in its country report 2024 on UK, there has been few cases this year in UK where the citizens were arbitrarily deprived of their life i.e. death of Ciris Kaba, who was murdered by a police officer on September 12. His inquiry is ongoing. There have been no cases of serious torture to the detainees and no enforced disappearance was reported in entire year.<sup>64</sup> This means that UK has been greatly safeguarding the life and liberty of their citizens.

### Recommendations:

- Amnesty international provided a 14 points guideline to prevent extra judicial executions. Government must follow these guidelines.<sup>65</sup>
- Pakistan must ratify CED and incorporate its articles in its domestic laws and follow the guidelines for the search of person disappeared. <sup>66</sup>
- Pakistan must align its Torture and Custodial deaths act, 2022 with the requirements of UNCAT.
- There must be a strict and strong check on agencies and authorities. These forces must be treated as state organ not as separate authoritarians.
- The latest 26<sup>th</sup> amendment in constitution of Pakistan took away Suo Motu power from Supreme Court. Supreme Court must have the Suo Motu power under Article 184(3), so that where the matters of serious violation fundamental rights are involved, it can take action on its own for the public interests.
- We need to identify all these violations as specific crimes and for combating these crimes we need to perform effective legislation which must be implemented on all costs.
- MPO must be amended in conformity with constitutional rights.
- If the police suspect someone, it must not arbitrarily detain him rather than stop him and search him legally, like the stop and search policy of UK.

### Conclusion:

In a nutshell, there are serious instances available where the states have badly failed in fulfilling their duty to prevent unlawful deprivation of life and liberty. Pakistan's state machinery remained doomed in fulfilling the requirements of the constitution. Its executive bodies have been found greatly involved in killing people beyond their authority domains. Fake encounters are a regular meal nowadays. Even the higher courts have tried to negate it by their verdicts as deeming it to terrorism but the arena of this violation is so large that most of such violation remained unreported due the pressure build by police authorities. Enforced disappearances leaves a big question mark on status of Pakistan that state functionaries i.e. military and agencies make people disappear without any fear and the victims have to bear torture and eventually death. Hard heartedly any attempt to legislate against enforced disappearances remained futile and its number is not decreasing anyway. Pakistan has still not ratified CED. Though UK has several violations of arbitrary nature but the ambit of these violations is very little as compared to Pakistan. Pakistan needs to amend constitution and laws to criminalize extra-judicial killing and enforced disappearances. Likewise the positive and negative obligations provided by article 5 of Human rights Act 1998, there is need to interpret those obligations in articles 9 and 10 of constitution of Pakistan. Pakistan needs to legislate effectively. Political parties need to forget their individual interest and focus on betterment of Pakistan. Department must be independently working and there must be a strong check on all the executive departments to ensure that there will be no chance for any single officer to plane any fake encounter and portray it as accident or a part of its duty. Pakistan must follow the above mentioned recommendations to make its system better.

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