



Observations by the National Commission for Human Rights (NCHR) on the draft Guidelines on the Disappearance of Persons in the Context of Migration

National Commission for Human Rights, Pakistan

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Introduction

A. National Commission for Human Rights of Pakistan

The National Commission for Human Rights (NCHR) is Pakistan's independent national human rights institution, established under the National Commission for Human Rights Act, 2012, with a mandate to promote and protect human rights in accordance with the Constitution of Pakistan and the country's international human rights obligations. The Commission monitors the human rights situation across the country, conducts independent inquiries and investigations, reviews existing laws and policies, undertakes research on emerging human rights issues, engages with State institutions and civil society, and provides recommendations aimed at strengthening the protection of human rights. As Pakistan's National Human Rights Institution, NCHR also contributes to international human rights mechanisms through reporting, policy engagement and technical submissions.

The disappearance of persons in the context of migration engages a wide range of human rights, including the rights to life, liberty and security of person, access to justice, family life, truth, and effective remedy. The Commission therefore welcomes the initiative of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to develop comprehensive Guidelines on the Disappearance of Persons in the Context of Migration and appreciates the opportunity to provide observations on the draft.

B. Basis of this Submission

This submission is informed by the Commission's broader work on migration, trafficking, detention and access to justice. In recent years, NCHR has undertaken research and policy engagement on irregular migration, including the human rights risks associated with unsafe migration routes commonly referred to in Pakistan as *dunki*. The Commission has also examined issues relating to the smuggling and trafficking of migrants, the protection of Pakistani nationals detained or imprisoned abroad, and the challenges faced by families seeking information about relatives who have gone missing or lost contact during migration journeys.

The Commission's observations also draw upon consultations and engagement with relevant government institutions, including those responsible for migration management, law enforcement and consular affairs, as well as discussions with civil society organisations, legal practitioners, international organisations and affected families. These experiences have highlighted recurring protection gaps relating to cross-border cooperation, access to information, family participation, identification of missing persons and human remains, and support for victims and their relatives.

Pakistan's experience provides a particularly relevant perspective for the development of these Guidelines. While Pakistan is primarily a country of origin for migrant workers and other migrants, it also serves as a transit and, in certain contexts, a destination

country. Pakistani nationals continue to migrate through both regular and irregular channels, including increasingly dangerous maritime and overland routes, exposing them to heightened risks of disappearance, trafficking, exploitation, arbitrary detention and death.

The draft Guidelines represent an important step towards strengthening international standards on the prevention of disappearances in the context of migration and the protection of missing migrants and their families. The observations that follow are intended to support their practical implementation by drawing on lessons and challenges identified through the Commission's work and Pakistan's experience.

General Observations on the Draft Guidelines

NCHR considers the draft Guidelines to be a timely and significant contribution to the development of international standards addressing one of the most complex and under-recognised human rights consequences of migration. The Guidelines adopt a comprehensive, rights-based approach that moves beyond viewing disappearances solely as a law enforcement or migration management issue and instead recognises them as a multifaceted human rights concern requiring coordinated action by States.

The Commission welcomes the draft's recognition that disappearances in the context of migration require a comprehensive, rights-based response encompassing prevention, search, investigation, family participation, cross-border cooperation, identification of human remains and reparations. It particularly values the recognition of families as rights holders and the emphasis on transnational cooperation and due diligence.

At the same time, the Commission considers that certain aspects of the draft could be further strengthened to enhance its practical implementation. In particular, greater attention could be given to the experiences of countries of origin, the role of national human rights institutions, the challenges associated with prolonged detention and loss of contact with migrants abroad, and measures that facilitate timely information-sharing, family participation and effective cross-border cooperation. The observations that follow are intended to contribute constructively to further development of the Guidelines.

The Pakistan Context: Why These Guidelines Matter

Pakistan's experience underscores the importance of developing comprehensive international guidance on the disappearance of persons in the context of migration. As a major country of origin for migrant workers and other migrants, Pakistan has witnessed increasing reliance on irregular migration routes, driven by a combination of economic hardship, unemployment, limited regular migration opportunities, debt, conflict and the activities of organised smuggling networks. These irregular journeys, commonly referred to in Pakistan as *dunki* migration, often involve dangerous overland

routes through multiple countries, as well as increasingly hazardous maritime crossings.

These migration pathways expose individuals to a broad spectrum of human rights risks, including trafficking in persons, migrant smuggling, exploitation, violence, arbitrary detention, prolonged incommunicado detention, extortion and death. The transnational nature of these movements frequently places migrants beyond the immediate reach of their families and the authorities of their country of origin, creating significant obstacles to locating missing persons, verifying their status and ensuring access to protection and assistance.

In the Pakistani context, disappearances may occur at multiple stages of the migration journey. Migrants may disappear while travelling through remote transit routes, during maritime crossings, after interception by border authorities, while being held by traffickers or smugglers, or while detained abroad without effective communication with their families. In other cases, individuals lose their lives during migration journeys and remain unidentified for extended periods, leaving families without information regarding their fate or whereabouts.

For families, the disappearance of a loved one often results in prolonged uncertainty and significant emotional, social and economic hardship. Many families have exhausted their financial resources to finance migration through loans or the sale of assets, only to lose contact with relatives during the journey. They frequently remain uncertain whether the individual is alive, detained, trafficked, deceased or otherwise unable to communicate. The absence of timely information, accessible reporting mechanisms and effective cross-border coordination often prolongs this uncertainty, while differences in legal systems and administrative procedures across jurisdictions further complicate efforts to locate missing persons or obtain reliable information.

The Commission has also received complaints from families and, in some cases, communications from Pakistani nationals who reported being trafficked, sold or otherwise trapped in exploitative conditions abroad, including situations involving forced labour. These cases illustrate that a loss of contact may result not only from death or detention, but also from severe exploitation and coercion that prevents migrants from communicating with their families or seeking assistance.

The Commission's work has demonstrated that these challenges are not confined to a single stage of migration but arise throughout the migration continuum; from departure and transit to detention, return or death abroad. They reinforce the importance of the draft Guidelines' emphasis on prevention, early search, family participation, cross-border cooperation, consular coordination, identification of human remains and access to truth, justice and reparation. At the same time, Pakistan's experience suggests that practical implementation of these principles will require stronger mechanisms for information-sharing, coordinated action between countries of origin, transit and destination, and sustained support for families throughout the search process.

Observations and Recommendations on Key Themes

A. Prevention of Disappearances in the Context of Migration (Guidelines 11–14)

The Commission welcomes the draft Guidelines' recognition that preventing disappearances requires more than responding after a person has gone missing. The emphasis on evidence-based migration policies, addressing structural causes, awareness-raising and the adoption of preventive public policies reflects an important shift towards reducing risks before disappearances occur.

Drawing on its work on irregular migration, the Commission notes that prevention should also place greater emphasis on the structural factors that compel individuals to undertake dangerous migration journeys. Economic hardship, debt, limited opportunities for regular migration, misinformation disseminated by migrant smuggling networks and inadequate awareness of the risks associated with irregular migration continue to expose individuals to situations where disappearance becomes increasingly likely. Prevention strategies should therefore extend beyond border management and incorporate measures that reduce vulnerability before departure.

The Commission recommends that the Guidelines encourage States to:

- expand safe, accessible and regular migration pathways;
- strengthen oversight of labour recruitment agencies and combat migrant smuggling networks through rights-based approaches;
- develop evidence-based migration policies informed by reliable data and risk analysis;
- implement sustained awareness campaigns in communities with high levels of outward migration, including information on the risks of irregular migration and available avenues for safe migration; and
- Address the underlying socioeconomic conditions that contribute to unsafe migration decisions.

B. Search, Reporting and Early Response (Guidelines 15–28)

The Commission strongly supports the draft Guidelines' emphasis on these provisions as they represent essential safeguards for migrants and their families. In practice, however, families frequently encounter significant obstacles when attempting to report disappearances across borders. Many are uncertain which authority should receive a report, whether a disappearance has occurred in a transit or destination country, or whether the individual is detained, trafficked, deceased or otherwise unable to communicate. Delays in reporting and uncertainty regarding institutional responsibilities can substantially reduce the effectiveness of search efforts.

The Commission therefore recommends further strengthening the Guidelines by encouraging States to:

- establish accessible reporting mechanisms that can be used from abroad;

- permit reporting through embassies, consulates and secure electronic platforms;
- designate national focal points responsible for coordinating cross-border cases involving missing migrants;
- ensure regular, timely and understandable communication with families throughout search and investigation processes; and
- Simplify administrative procedures so that families are not required to navigate multiple institutions before a search can commence.

C. Cross-Border and Consular Cooperation

The Commission welcomes the draft's strong emphasis on transnational cooperation, including coordination among countries of origin, transit and destination, judicial and forensic cooperation, and mechanisms for information sharing. Given the inherently cross-border nature of migration, effective cooperation between States is indispensable for locating missing persons and supporting affected families.

Drawing upon its engagement with issues concerning Pakistani nationals imprisoned abroad, the Commission considers that the Guidelines could place greater emphasis on situations where migrants effectively "disappear" from the perspective of their families because of prolonged detention, loss of communication or inadequate notification procedures. Families often remain unaware whether a relative has been detained, transferred, convicted, deported or has died while in custody abroad. Although these situations may not always constitute enforced disappearance, they frequently create the same prolonged uncertainty and humanitarian consequences for families.

The Commission also recognises that in some situations effective consular assistance is not available, including where diplomatic relations are absent, consular representation is limited, or migrants are detained in jurisdictions where access by their State of nationality cannot readily be secured. In such circumstances, the Guidelines could encourage States to develop alternative mechanisms for information-sharing and humanitarian cooperation, including through protecting powers, international organisations such as the ICRC or IOM where appropriate, and other agreed channels that enable families to receive reliable information about the whereabouts and welfare of detained migrants.

The Commission therefore recommends strengthening provisions relating to:

- prompt notification of detention to families and consular authorities;
- timely exchange of information concerning detained foreign nationals;
- regular and meaningful consular access, and where this is not possible, alternative arrangements for communication and information-sharing through agreed humanitarian or international mechanisms;
- effective communication between detention authorities and families;
- rapid information-sharing concerning deaths in custody and unidentified remains; and

- Institutional cooperation between countries of origin, transit and destination to ensure continuity of information throughout the migration process.

D. Families as Rights Holders

The Commission strongly supports the draft Guidelines' recognition of family members and persons with close personal relationships as rights holders and active participants throughout search, investigation and reparation processes. This reflects the reality that disappearance produces continuing consequences extending far beyond the individual who has gone missing.

The Commission's experience indicates that families frequently experience profound financial, psychological and social consequences following a disappearance. Many incur significant debt to finance migration, lose household income following the disappearance of the primary breadwinner, and face prolonged uncertainty that affects their mental health, family relationships and social standing within their communities.

The Commission recommends that the Guidelines place greater emphasis on comprehensive support for families, including:

- accessible legal assistance;
- long-term psychosocial support;
- practical assistance in navigating administrative and legal procedures;
- livelihood and income-support measures where appropriate; and
- Recognition of the social stigma and economic hardship frequently experienced by affected families.

E. Data Collection and Information Systems

The Commission welcomes the draft's emphasis on comprehensive data collection, interoperable databases and the systematic recording of disappearances. Reliable information is fundamental to prevention, search, policy development and accountability.

The Commission notes that many countries continue to face significant challenges in generating accurate and comparable information on disappearances occurring throughout the migration process. Differences in definitions, fragmented institutional responsibilities and limited cross-border information-sharing frequently result in incomplete data, making it difficult to identify trends, allocate resources or evaluate policy responses.

The Commission recommends that the Guidelines encourage States to:

- adopt harmonised definitions and reporting standards;
- strengthen interoperability between national and regional information systems;
- establish designated national focal points responsible for missing migrant data;
- publish anonymised statistical information to support evidence-based policymaking; and

- Collect disaggregated data covering the different stages of migration, while ensuring appropriate safeguards for privacy and personal data protection.

F. Identification of Human Remains

The Commission welcomes the detailed guidance relating to forensic investigation, DNA collection, identification procedures and the dignified treatment and repatriation of human remains. These provisions appropriately recognise that identification is not only a forensic process but also an essential component of families' rights to truth, dignity and closure.

The Commission recommends additional emphasis on:

- timely exchange of DNA profiles and forensic information between States;
- strengthened cooperation among forensic institutions across jurisdictions;
- clear procedures for the dignified repatriation of identified remains; and
- Regular communication with families throughout identification processes, including transparent explanations of procedures, expected timelines and available support services.

G. Reparations and Long-Term Support

The Commission supports the draft's comprehensive approach to reparation, recognising that the consequences of disappearance frequently persist long after search and investigation processes conclude. Effective remedies should therefore address not only legal accountability but also the continuing social, psychological and economic impacts experienced by victims and their families.

The Commission recommends that the Guidelines further emphasise the need for sustained assistance to families during prolonged searches and after the fate of a missing person has been established. In particular, States should consider providing:

- interim financial assistance where disappearance results in severe economic hardship;
- long-term psychosocial and mental health support;
- assistance in obtaining legal documentation and exercising civil, administrative and property rights; and
- Livelihood and social protection measures where the disappearance results in the loss of the family's primary source of income.

Such measures recognise that the effects of disappearance are often enduring and that comprehensive reparation requires sustained support tailored to the circumstances of affected families.

Additional Areas for Consideration

While the draft Guidelines provide a comprehensive framework for addressing disappearances in the context of migration, the Commission considers that several

cross-cutting issues warrant further attention to strengthen implementation and accountability.

A. Role of National Human Rights Institutions

The Commission notes that the draft makes limited reference to the role that National Human Rights Institutions (NHRIs) can play in addressing disappearances in the context of migration. As independent institutions established in accordance with the Paris Principles, NHRIs are well positioned to complement the work of State authorities by monitoring compliance with human rights obligations, receiving and referring complaints, conducting independent investigations where appropriate, facilitating dialogue between institutions, supporting victims and their families, and contributing to policy development and international cooperation.

The Commission recommends that the Guidelines explicitly recognise the role of NHRIs as partners in implementation, monitoring and accountability, particularly in countries of origin where families often first seek assistance.

B. Reintegration and Protection of Survivors

The draft appropriately focuses on preventing disappearances, locating missing persons and providing reparations to victims and their families. However, greater attention could be given to migrants who survive situations associated with disappearance, including trafficking, kidnapping, prolonged detention, exploitation or other serious human rights abuses encountered during migration.

The Commission recommends that the Guidelines encourage States to develop rights-based reintegration measures that include access to medical and psychosocial care, legal assistance, livelihood support and referral to appropriate protection services. Survivors often possess valuable information that can assist investigations and prevention efforts, while also requiring sustained support to recover from trauma and rebuild their lives.

C. Use of Technology and Digital Communication

The Commission recognises the increasing importance of digital technologies in both preventing disappearances and facilitating search efforts. Mobile communications, geolocation information, electronic reporting platforms and secure communication channels can significantly improve contact between migrants, their families and competent authorities.

The Commission recommends that, where consistent with international human rights standards, domestic law and due process guarantees, relevant digital information that may assist search efforts should be preserved and made available to competent authorities. At the same time, safeguards relating to privacy, informed consent, cybersecurity and data protection should remain central to the use of digital technologies.

Conclusion

The Commission welcomes the draft Guidelines and believes their effective implementation will depend on prevention, meaningful family participation, strong cross-border and consular cooperation, accessible reporting mechanisms, comprehensive support for victims and their families, and independent oversight. NCHR hopes these observations contribute to strengthening the Guidelines and advancing coordinated, rights-based responses to disappearances in the context of migration.



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