

ENFORCED DISAPPEARANCES



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Authors

The Bahrain Center for Human Rights (BCHR) is a non-profit, non-governmental organization, registered with the Bahraini Ministry of Labor and Social Services since July 2002. Despite an order by the authorities in November 2004 to close, the BCHR is still functioning after gaining wide local and international support for its struggle to promote human rights in Bahrain.

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The Bahrain Youth Society for Human Rights (BYSHR) is a non-profit, non-governmental organization founded in March 2005. In June 2005, the BYSHR attempted to register as a non-governmental organization with the Bahraini government, but was refused. See: www.byshr.org

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I. Introduction

In 2012, the Bahrain Independent Commission for Inquiry (BICI) stated in its final report that it had received 169 cases of enforced disappearances in Bahrain and that more than 1000 cases were submitted to the commission by another party. The commission said that it has received allegations that “persons were arrested and subjected to enforced disappearance without acknowledgement or in facilities the location of which was not disclosed to the detainees or their families.” The BICI report stated that victims’ fates were unknown for periods ranging between “one day to a few weeks and, in a few cases, months.”¹

The Working Group on Enforced Disappearances (WGEID) has mentioned Bahrain over the past two years for its use of enforced disappearances against arrestees. In its 103rd session on May 2014, the WGEID listed Bahrain as one of the countries of concern where the practice is ongoing².

In 2014, the Bahrain Center for Human Rights (BCHR) released a report regarding the practice of enforced disappearance in which it concluded that “the government is willing to subject anyone, including journalists, human rights activists, political leaders, ordinary citizens and even children, to this brutal practice.” It outlined cases of enforced disappeared arrestees where their families were not informed about the whereabouts of victims for up to several weeks. In at least one case, enforced disappearance has resulted in the death of a citizen allegedly under torture³.

Enforced disappearance is one of the strategies that has become common to use in Bahrain to spread terror within the society. This strategy has had major consequences on Bahraini society, affecting not only the victims themselves but the community as a whole. Relatives of the many arrestees are subjected to emotional despair. Due to the widespread and serious effect the practice of enforced disappearance has on the whole community, the BCHR and the Bahrain Youth Society for Human Rights (BYSHR) decided to work on documenting and reporting on this serious human rights violation. The aim of this report is to show the severity of the use of enforced disappearance in Bahrain.

During the course of the project, from November 2014 to June 2015, BCHR and BYSHR have documented 241 cases of arrestees and more than 200 cases of detainees, of whom the majority were subjected to enforced disappearances for periods from several hours to up to a month.

¹ M. Cherif Bassiouni, Nigel Rodley, Badria Al-Awadhi, Philippe Kirsch, and Mahnoush Arsanjani. “Report of the Bahrain Independent Commission of Inquiry.” Bahrain Independent Commission of Inquiry. 11 December 2011. Pages 314 to 317. <http://www.bici.org.bh/BICIreportEN.pdf>.

² OHCHR. “Enforced disappearances: UN expert group concerned about the high number of recent cases reported.” 16 May 2014. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14612&LangID=E>

³ BCHR, “Enforced Disappearance in Bahrain.” 30 August 2013. <http://www.bahrainrights.org/sites/default/files/Enforced%20Disappearances%20in%20Bahrain%20Report%20Final.pdf>

II. Methodology

This report presents the practice of enforced disappearance in Bahrain. It draws on case studies of enforced disappearances carried out by Bahraini authorities. The report discusses patterns, treatment during disappearance, enabling laws, and recommendations. The documentation team members from Bahrain Human Rights Center (BCHR) and Bahrain Youth Society for Human Rights (BYSHR) documented enforced disappearance cases over a period of eight months from November 2014 to June 2015. This report was sponsored by Action Aid.

III. Framework

The act of enforced disappearance is prohibited by international law as it directly violates many basic human rights, including the right to liberty, right to security and dignity, right to recognition before the law, right to fair trial, and the right not to be subjected to torture or other cruel and inhumane treatment.

The right not to be subjected to enforced disappearances and the aforementioned related rights are preserved by three main international treaties that Bahrain has ratified: the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and the UN Convention against Torture.

Enforced disappearance was further detailed and defined in the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) which defined enforced disappearance in Article 2 as: *"... 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."* The convention declared that *"no one shall be subjected to enforced disappearance."*

Article 1 states that enforced disappearance is *"an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations;"* and *"Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life."*

The ICCPED is not directly applicable to Bahrain as it is not a signatory; however, the definitions and mechanisms in the convention were used as a framework in documenting cases and preparing this report.

Moreover, protection from enforced disappearance is a right preserved by the Bahraini Constitution. The Constitution states in Article 19 that *"b. a person cannot be arrested, detained, imprisoned or searched, or his place of residence specified or his freedom of residence or movement restricted, except under the provisions of the law and under judicial supervision;"* and it also guarantees that *"d. no person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law. Any statement or confession proved to have been made under torture, inducement, or such treatment, or the threat thereof, shall be null and void."* Although the law preserves this right, there are provisions of the law that are considered to enable enforced disappearance in practice and which ignore the fact that persons subjected to enforced disappearance are systematically deprived from their rights to liberty, fair trial, not be subjected to torture and inhumane treatment, and enjoyment of health care, amongst other rights.

The Government of Bahrain has put in place a domestic grievances process. The family of a victim of enforced disappearance can enquire at the Criminal Investigation Directorate (CID), Police Station, and, since

2012, to Bahrain's Ministry of Interior Ombudsman. However, in practice, these measures were found to be of no use and have not helped families reveal the fate of victims.

IV. Parties Involved

1. Disappeared Persons: The Victims

Right to Liberty and Security: Statistics & Patterns

The documentation team from BCHR and BYSHR has documented more than 400 cases of persons subjected to enforced disappearances during the period of this project, from November 2014 to June 2015. The cases documented show that there are two forms of enforced disappearances practiced by the authorities in Bahrain:

Following Arrest

241 cases were documented of persons arrested by the authorities. Of these, 95% were subjected to enforced disappearance for periods from several hours to up to one month.

The authorities hold the arrestees incommunicado and do not allow them to contact their families or lawyers. Usually, they allow arrestees one call a few hours into their arrest lasting only a few seconds, in which the detainees tell their families "I'm fine. I'm at [location]" before the call is ended. However, when families visit the Criminal Investigation Directorate (CID) or the mentioned police station to ask about the detainee, they are usually told that he/she is not in their custody and that they do not have any information about him/her. In more than 100 of the documented cases, the families confirmed that they were told by the authorities that the victims were not in their custody and were not provided with any further details of their whereabouts or wellbeing. However, it was found later that they were indeed actually in their custody.

Post Arrest/ In Detention

Following unrest in Bahrain's Jau Prison in March 2015, approximately 1500 prisoners were reportedly subjected to enforced disappearance for periods from two weeks to more than one month. We were able to meet people and document more than 200 disappearances in Jau Prison. After the news spread of a violent suppression at the prison, and despite desperation to get information on the wellbeing of the prisoners, the Jau prison administration prevented prisoners from visits, calls, or any contact with their families, leaving the families in complete darkness and with great concern for their relatives⁴.

⁴ BCHR. "NGOs Express Concern that Bahrain Anti-Terrorism Amendment Permits Human Rights Violations." 19 December 2014.

<http://www.bahrainrights.org/en/node/7209>

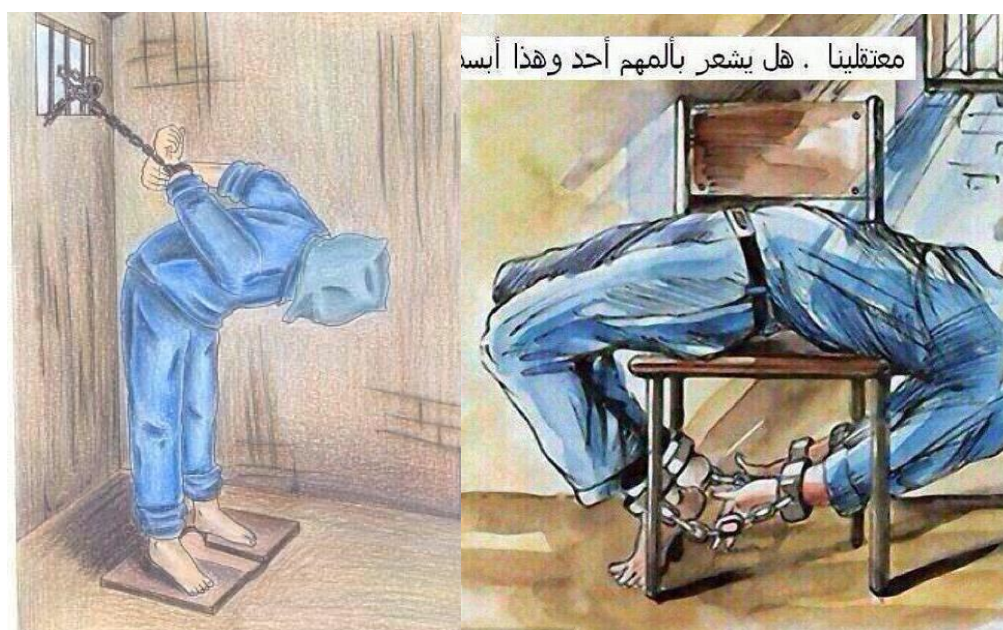
Right To Not Be Subjected To Torture & Inhumane Treatment

The majority of victims stated that they had been subjected to torture and ill-treatment during arrest, interrogation or at prison.

75% of arrestees and the majority of Jau prisoners stated that they were subjected to form(s) of torture and ill-treatment at the hands of security forces and prison guards. The reported forms of torture were:

- beating, kicking, and punching, targeting the head and face, and by using hands, feet, batons, sticks, and hoses;
- administering electric shocks;
- threats of rape and sexual assaults;
- being put in a painful position, like *Falaqa* (see diagram below);
- being forced to stand for long periods of time; deprivation from sleep, food, and drink; and
- limits on the time permitted for going to the toilet.

Family members witnessed torture marks on the bodies and faces of the victims. Detainees reported injuries and illnesses due to torture they endured in detention or during arrest and interrogation such as: head injuries and visual and hearing impairment; symptoms like kidney failure, high blood pressure, etc.



Examples of stress positions during torture.

Right to Legal Representation, Due Process, & Fair Trial

The majority of victims of enforced disappearances were deprived of legal representation during interrogation in the CID and the public prosecution. They were not allowed to contact their lawyers nor seek legal representation.

Moreover, victims said that they were forced to confess crimes they did not commit under torture and duress during interrogation at the CID. These confessions were then commonly used during trials, convictions and sentencing, leading to long term imprisonment, death sentences, and citizenship revocation.

On 29 April 2015, a Bahraini court sentenced Salman Isa to death and Ali Maki to life in prison; and revoked their citizenship. Isa and Maki were subjected to approximately 14 days of enforced disappearance. Security forces reportedly subjected them to torture to extract their confession on false charges which were later used to convict them at court⁵.

Enabling Law

In 2014, the Government of Bahrain enacted amendments to the law of “Protecting and Combating Terrorism” that are considered to enable the practice of enforced disappearances. In article 26 of the law, the period of pre-trial was extended to period(s) of up to six months. Another amendment allows the government to detain an individual for up to 28 days without charges or investigation. Thus, the law violates Bahrain’s commitments to the right of a fair and speedy trial⁶.

Article 26:

This article establishes a prosecutor, “Terrorist Crimes Prosecutor,” whose members are appointed by royal order based on the suggestion of the general prosecutor. It specializes in investigating the crimes described in this law. This prosecutor is responsible for issuing detention orders in these cases from the public lawyer, or anyone fulfilling that position for a period or several consecutive periods totaling no more than 6 months.

Moreover, the law allows the prosecutor’s office to hold non-terrorist suspects without trial for up to 48 hours.

Domestic measures

In cases of enforced disappearance, families of detainees attempt to gain information from police stations and the CID. These bodies denied having victims in their custody in 98% of the cases, despite the fact they were in their custody at the time. Some families submitted complaints to Bahrain MOI’s Ombudsman which was established as a grievance mechanism. However, the majority stated either that they were not provided with any useful information, or that they did not receive any response whatsoever.

Similarly, families of detainees at Jau prison did not receive any help or assistance from the Ombudsman to determine the fate of their relatives, especially after receiving news that they were taken to the hospital. In several cases, families believed that arrestees were subjected to further torture and ill-treatment as a result of their complaints⁷.

⁵ BCHR. “Bahrain: Torture and Unfair trials for opposition affiliates sends the 7th man to death row”. 13 July 2015. <http://www.bahrainrights.org/en/node/7568>

⁶ BCHR. “NGOs Express Concern that Bahrain Anti-Terrorism Amendment Permits Human Rights Violations.” 19 December 2014. <http://www.bahrainrights.org/en/node/7209>

⁷ BCHR. “Inside Jau: Report Finds Rampant Torture and Abuse Inside Bahrain’s Political Prison.” 26 June 2015. <http://www.bahrainrights.org/en/node/7547>

2. Other Victims: Families & Communities

Families: Women & Children

Women

Enforced disappearance affects not only the victims themselves but also their families, friends, and communities. Families experience emotional suffering, not being informed of the arrestee's whereabouts and wellbeing. This emotional and mental suffering is most often borne by the women in the family - mothers, wives, and sisters.

In cases of victims who suffer serious diseases, women's suffering is heightened knowing that the victim is probably not being provided with adequate medical care or given the medication he or she needs. Such neglect could lead to complications and worsen their conditions, a fact well-known to the women.

The fear and worry are further increased by the fact that families in Bahrain realize that the victims are usually subjected to torture and ill-treatment.

Furthermore, in several cases families were subjected to arrest or interrogation for reporting the detainee's disappearance.⁸

Children

37% of the total cases of enforced disappearances following arrest were of minors below the age of 18 years. They reportedly disappeared for periods from several hours to up to two weeks. They were also subjected to physical and psychological torture and ill-treatment. Children are not only direct victims of enforced disappearance. Children of parents who are victims of enforced disappearance suffer from psychological anguish due to the disappearance.

Communities

Social media websites which allow families to share the process of arrest, disappearance, treatment during disappearance, and their worries and fears with the whole community have had an effect on the community. In the Office of High Commissioner for Human Rights (OHCHR) fact sheet about enforced disappearance, it was stated that "enforced disappearance has frequently been used as a strategy to spread terror within the society. The feeling of insecurity generated by this practice is not limited to the close relatives of the disappeared, but also affects their communities and society as a whole."⁹

⁸ Bahrain Al-Youm. "وزارة الخارجية اعتقال نساء من أهالي السجناء بعد اعتصام أمام". March 2015.
<http://bahrainalyoum.net/?p=24602>

⁹ OHCHR. "Enforced or Involuntary Disappearances."
<http://www.un.org/en/events/disappearancesday/pdf/FactSheet6Rev3.pdf>



Families protesting in front of the MOI's Ombudsman



Families protesting in front of the MOI's Ombudsman

3. Perpetrators

The Ministry of Interior (MOI), under its different bodies, is behind the enforced disappearances that are taking place in Bahrain.

Arrestees were arrested by the MOI's security forces and later transported to the MOI's CID or police station, where victims reported that they were held during the disappearance period. Jau Prison's victims' enforced disappearances were perpetrated by the prison administration, also managed by the MOI.

Families have sought the help of the Ombudsman of MOI which has not in the majority of reported cases provided them with information or help. In some cases, families and victims reported that they have been targeted after complaining to the Ombudsman.

V. Conclusion

The Bahraini authorities' use of enforced disappearance is ongoing. Security forces subject the majority of arrestees to short periods of enforced disappearance ranging from several hours to more than two weeks. During these periods of involuntary disappearance, victims are often subjected to torture and ill-treatment to extract false confessions. They are usually deprived of their right to due process and consequently from a fair trial. Therefore, victims of enforced disappearance in Bahrain are, as a result, sentenced to prolonged prison terms and, in several cases, to death and citizenship revocation. Similarly, it was found that prisoners too are subjected to a period of enforced disappearance, during which they reportedly are tortured and subjected to ill-treatment.

The Government of Bahrain has established the Ombudsman Office for victims and families to file a complaint regarding any human rights violations perpetrated by the authorities, including enforced disappearance. However, the Office was deemed inefficient in the majority of cases, which leaves victims of enforced disappearance and their relatives without options of any domestic measures.

The effect of the practice of enforced disappearance is serious and harmful to victims, their families, and the community as a whole. It is believed that the continuity of this practice by authorities has negatively affected people from victims' communities in terms of inhibiting them from freely exercising their rights to free expression and free assembly.

VI. Recommendations

Based on the findings of this report, BCHR and BYSHR call on the Government of Bahrain to:

- Immediately end the use of enforced disappearance as a means of harassment;
- Ratify and respect the International Convention for the Protection of All Persons from Enforced Disappearance;
- Investigate all allegations of enforced disappearance and hold accountable those responsible before a fair and independent court;
- Revise the efficiency and independence of the Office of the Ombudsman's investigations of complaints.
- Release all victims of enforced disappearances, as well as all political prisoners and prisoners of conscience;
- Provide compensation to all victims of enforced disappearances, both for the time they spent in detention, and for the items taken by the security forces during house raids.

Furthermore, BCHR and BYSHR call on the United Nations to:

- Pressure the Bahraini Government to respect the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and UN Convention against Torture, all ratified by the Bahraini Government.

Appendix: Sample Case Studies

On 27 December 2014 at 11:00 P.M., security forces raided a house in Eker and arrested **Salman Isa and Ali Maki**. During arrest, security forces beat and threatened to kill and torture them. Security forces transported Isa and Maki to the CID. Security forces subjected to enforced disappearance Isa and Maki for 14 days. During the disappearance period, security forces tortured them to force them to confess false charges. They beat and kicked Isa and Maki all over their bodies, especially their heads, ears, and genitals. Security forces took them to the hospital due to torture. They told the doctors that their injuries were due to torture. Security forces took them back to the CID and further tortured them. Security forces interrogated Isa and Maki without a lawyer. On 29 April 2015, the criminal court sentenced Isa to death, Maki to life in prison, and revoked the citizenship of both.

Abdulla is a 22-year-old Bahraini citizen. On 19 February 2015, security forces in civilian clothes arrested Abdulla while he was with his friends in front of a *matam* in their neighborhood. They transported Abdulla to an unknown destination and did not inform him of the reason of arrest. They allowed Abdulla one short call in which he said that he was at the CID. Security forces subjected to enforced disappearance Abdulla for nine days. His family enquired at the CID and local police stations about Abdulla, they informed them that Abdulla was not in their custody. At the CID, security forces tortured Abdulla. They slapped, beat, and kicked Abdulla on his hands and legs and hanged him. Security forces transferred Abdulla to the hospital three hours after his arrest for treatment of injuries due to torture.

Ali is a 25-year-old Bahraini citizen. On 20 March 2015 at 5:45 P.M., security forces arrested Ali from the street. They did not inform him of the reason of arrest. On 21 March 2015, Ali called his family to just tell them that he was fine. Security forces arrested him for 3 days until 24 March 2015. During the disappearance period, security forces tortured Ali. They blindfolded him and stripped him naked. Security forces kicked Ali on his head and chest and sexually harassed him. Ali passed out twice due to torture.

Faisal is a 17-year-old Bahraini minor. On 19 March 2015 at approximately 1:20 A.M., security forces raided Faisal's house and arrested him. Ali called a few hours following his arrest and told his family that he was at the CID. When his family enquired about Faisal at the CID, they denied having him in their custody. At the CID, security forces tortured Faisal. They beat and kicked his genitals. Security forces sexually harassed Faisal. His family submitted a complaint to the Ombudsman. However, the Ombudsman did not respond to them.

Ali is a 26-year-old Bahraini citizen. On 9 February 2015 at 3:25 A.M., security forces raided and broke into a house where Ali was. They arrested Ali and others without presenting an arrest warrant. During the arrest, security forces beat and kicked Ali. Security forces subjected to enforced disappearance Ali for 7 days. On 16 February 2015, security forces allowed Ali to contact his family. Ali told his family that security forces tortured him.

Mahdi is a 20-year-old Bahraini citizen. On 21 February 2015 at approximately 4:30 P.M., security forces arrested Mahdi from the airport, when he was leaving Bahrain for university. Mahdi called his family four hours after his arrest to inform them that he was at the CID. Security forces disappeared Mahdi for a day. At the CID, security forces tortured Mahdi. They beat, kicked, and sexually assaulted him.

Mohammed is 19-year-old Bahraini citizen. On 30 March 2015, security forces raided Mohammed's house and arrested him without presenting a warrant. Security forces subjected Mohammed to enforced

disappearance for 11 days. Security forces tortured Mohammed. They beat him all over his body, especially on his head. Mohammed suffers from pain in his ear as a result of torture.

Taleb is a 28-year-old Bahraini citizen. On 31 March 2015, security forces in civilian clothes arrested Taleb from the street. They transported him to Sitra police station, then to the CID. At 11 P.M. Taleb called his family to inform them about his whereabouts. Security forces held Taleb for 7 days following arrest. At the CID, security forces tortured Taleb to force him to confess false charges. They beat him all over his body and electrocuted him. On their first visit, on 8 April 2015, Taleb's family saw torture marks on his hands and head. Taleb couldn't hear well due to torture. Security forces did not allow Taleb to contact his lawyer. They transported him to the public prosecution without a lawyer. The public prosecution charged Taleb with allegedly carrying out an explosion, arson, riot, and illegal assembly. On 11 May 2015, the criminal court held the first hearing in Taleb's trial.

Ali is a 17-year-old Bahraini minor. On 10 March 2015 at 3:30 P.M., security forces arrested Ali from a peaceful protest. Security forces disappeared Ali for 7 hours. On 10 March 2015 at 11:30 P.M., Ali called his family to inform them that he would be taken to the public prosecution the next day. Security forces tortured Ali, by beating, kicking, and sexually harassing him.

Abdulla is a 25-year-old Bahraini citizen. On 21 May 2015 at 12:30 A.M., security forces raided and broke into Abdulla's house. They searched the house for two hours and confiscated electronic devices and other items and vandalized the house. Security forces arrested Abdulla. They did not present arrest or search warrants. They told the family that Abdulla would be taken to the CID. Security forces subjected to enforced disappearance Abdulla for 6 days. On 1 June 2015, security forces transported him to the public prosecution. They interrogated him without his lawyer. Security forces tortured Abdulla which resulted in his nose being broken and his hearing being affected. Security forces renewed his detention.

Hasan is a 16-year-old Bahraini minor. On 30 November 2014 at 1:30 A.M., security forces raided Hasan's house. He was not at home at the time so security forces handed his family a summons. On 30 November 2015 at 11 A.M., Hasan went with his parents to the police station. He called his family the next day to inform them that he was at the police station and would be taken to the public prosecution. Afterwards, they transported him to the CID. Security forces subjected to enforced disappearance Hasan for three days. The public prosecution remanded Hasan for 60 days under the terrorism law. His family enquired at the CID but they did not provide any information about Hasan.

Mohammed is a 14-year-old Bahraini minor. On 7 December 2015, security forces raided Mohammed's neighborhood and arrested him. His parents went to the police station where they signed a pledge to bring him the next day and he was then released. On 8 December 2015, his parents took Mohammed to the police station. Mohammed was gone for two days. During this period, security forces transported him to the public prosecution without his lawyer. They remanded him for one week and charged him with allegedly participating in a riot.

Ali is a 19-year-old Bahraini citizen. On 12 March 2015 at 11 P.M., security forces raided his friend's house and arrested him. Security forces subjected to enforced disappearance Ali for 5 days. His family asked at two police stations about Ali's whereabouts but security forces denied having him in their custody. On 17 March 2015, Ali was allowed to call his family.