Enforced Disappearances – Myanmar Coup

What is the issue?

- The democracy movement in Myanmar after the recent military coup is at a critical juncture.
- It has brought to the fore a serious concern of enforced disappearances.

What is an enforced disappearance?

- In effect, enforced disappearances act as a tool to suppress the people.
- First, it is characterised by the deprivation of liberty.
- Persons are arrested, detained or abducted against their will or otherwise deprived of their liberty.
- Second, there are grounds for seeking governmental responsibility for the act.
- Third, such an act typically occurs in the context of a state's continuous refusal to take relevant action.
- This includes the refusal to disclose the fate or whereabouts of the persons concerned or refusal to acknowledge the deprivation of their liberty.
- This, in essence, places such persons outside the protection of the law.
- One of the most tragic dimensions of the crime of enforced disappearance is the suffering that is inflicted on the people who know the victims.

What is going on in Myanmar?

- On February 1, 2021, the military launched a coup d'état.
- It overthrew the democratically elected government led by Aung San Suu Kyi's party, the National League for Democracy.
- The military is now committed to suppressing the people's movement demanding freedom of expression and the restoration of democracy.
- The police are carrying out unimaginable acts of violence and oppression.
- Since the coup, the UN (WGEID) has received reports of enforced disappearances from the family members of victims.
- [WGEID - Working Group on Enforced or Involuntary Disappearances]
- Myanmar is not the only country in Asia in this regard.

- The number of cases of enforced disappearances in Asian states is not decreasing and there is rapid increase in some countries.

What are the other similar cases?

- **Argentina** - Enforced disappearances became widely known to the world in the 1970s and the early 1980s.
- That was during the 'Dirty War' in Argentina.
- The Argentine military dictatorship committed forceful disappearances of some 30,000 of its own citizens while denying that they kidnapped, tortured, and murdered them.
- **Uyghur minorities** - In China, the Working Group has received reports of a massive number of enforced disappearances in the Xinjiang Uyghur Autonomous Region.
- Members of the Uyghur minority ethnic group are forcibly sent to what Chinese authorities call 'vocational education and training centers.'
- This is happening under the pretext of re-education to prevent terrorism.
- The basis for such forced disappearances is often very trivial.
- E.g. having relatives living abroad or maintaining international contacts
- 'Residential Surveillance at a Designated Location (RSDL)' under Article 73 of the amended Criminal Procedure Law is also being used.
- As RSDL places individuals under incommunicado detention without disclosing their whereabouts, it may amount to a form of enforced disappearance.
- **Post-conflict issues -** Sri Lanka has experienced more than three decades of domestic conflict, accompanied by various forms of enforced disappearances.
- Recently, the government is weakening initiatives it previously started in this regard, and is again promoting a culture of impunity for these crimes.
- Worryingly, enforced disappearances are being committed in the name of counter-terrorism measures.
- Increasing numbers of enforced disappearances are being reported in Pakistan and Bangladesh too.

What are the remedial measures?

- To fight against these gross and systematic human rights violations, the UN Commission on Human Rights established the Working Group in 1980 as the first special procedure mechanism of the UN Commission.
- The Declaration on the Protection of all Persons from Enforced Disappearance (1992) is also in place in this regard.

- The Working Group works to assist families of disappeared persons, to ascertain their fate and whereabouts.
- It also helps to assist and monitor states' compliance and documented cases of enforced disappearance, and presses states to offer remedies.
- **Recent concern** - The COVID-19 pandemic has reduced the capacity of all actors to take the necessary action to search for and investigate cases of enforced disappearances that are still continuing during the pandemic.

What is the way forward?

- An enforced disappearance is a continuous crime that needs a comprehensive approach to fight against it.
- The international community adopted the International Convention for the Protection of all Persons from Enforced Disappearance in 2006.
- This became effective in 2010, to protect the right to be free from enforced disappearances.
- However, the number of participating states is still very low compared to other treaties.
- Among 63 member states of the treaty, only eight states from the Asia-Pacific region have ratified or acceded to the treaty.
- Only four East Asian states - Cambodia, Japan, Mongolia, and Sri Lanka - have ratified it.
- The domestic criminal law systems of these countries are not sufficient to deal with the crime of enforced disappearance.
- Understanding this, the Asian countries should take their responsibilities more seriously and reject a culture of impunity, to eradicate enforced disappearances.

Source: The Hindu

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