



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

Joint statement on so-called “short-term enforced disappearances”

I. Introduction

The Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances,

Having regard to the Declaration on the Protection of All Persons from Enforced Disappearance and the International Convention for the Protection of All Persons from Enforced Disappearance, and in consultation with other treaty bodies instituted by relevant international human rights instruments,

Recalling that enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty of a person 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 places such a person outside of the protection of the law,

Considering the extreme seriousness of enforced disappearance, which constitutes a violation of several human rights, such as the right to life, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person and the right to recognition as a person before the law,

Considering also that in certain circumstances defined in international criminal law, enforced disappearances may amount to crimes against humanity, and that the prohibition of enforced disappearance has attained the status of a peremptory norm of international law (*jus cogens*), universally binding at all times,

Recalling the obligations of States to prevent and combat impunity for the crime of enforced disappearance, and the rights of victims, including any individual who has suffered harm as a direct result of an enforced disappearance, to justice and reparation, and to know the truth about the circumstances of an enforced disappearance and the fate and whereabouts of the disappeared person, as well as the progress and results of the corresponding investigations,

Having examined their own statements, general comments, reports, concluding observations, thematic studies and jurisprudence, and those of other human rights oversight bodies at both the universal and the regional levels, as well as information received in response to a call for inputs, which show the prevalence of so-called short-term enforced disappearances and the corresponding challenges in identifying and fighting them,



Aware that international human rights monitoring bodies, including the Working Group on Enforced or Involuntary Disappearances¹ and the Human Rights Committee,² as well as the United Nations investigative bodies,³ have in the past used the expressions “short-term enforced disappearance” or “enforced disappearance of short duration” to refer to instances where the crime ceases after a period of time,

Decide to issue the following joint statement, with the purposes of making this practice more visible, of clarifying the understanding of the notion of so-called “short-term” enforced disappearance, and of emphasizing that duration is not a constitutive element of enforced disappearance under international human rights law. The statement serves to recognize that, regardless of the duration of an enforced disappearance, it produces serious harm and consequences for the disappeared and their families, and also presents practical challenges as regards seeking protection as well as defence of their rights. Finally, the statement is aimed at identifying key measures to prevent so-called short-term enforced disappearances, and at highlighting the consequences of these practices vis-à-vis the mandates of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances.

II. Identifying the context and reaffirming States’ international obligations regarding so-called short-term enforced disappearances

1. While international law does not define or differentiate short-term enforced disappearances, in various regions of the world, patterns of enforced disappearance of people lasting for a limited period of time, even for a few hours, have been documented and are recurrent. Those instances qualify as enforced disappearance as defined in the preamble to the Declaration and in article 2 of the Convention, and also in the case law of the Human Rights Committee so long as they meet the constitutive elements of the definition. Nevertheless, the Committee on Enforced Disappearances, the Working Group on Enforced or Involuntary Disappearances and the Human Rights Committee⁴ acknowledge that these instances pose significant practical challenges for the victims and their families as they seek the truth about the fate and whereabouts of the person and attempt to obtain justice and reparation for the harm suffered.

2. While so-called short-term enforced disappearances often take place during times of political instability or public emergencies, no circumstances whatsoever may be invoked to justify them (art. 1 of the Convention and art. 7 of the Declaration).

3. Enforced disappearances, including so-called short-term enforced disappearances, can occur in both unofficial and official places of deprivation of liberty. In some cases, they are not recognized by State authorities, while in others the State argues that these deprivations of liberty are justified by the implementation of national security plans and strategies to combat terrorism and/or organized crime, such as drug trafficking or alleged attacks against State institutions, to deal with an internal or international armed conflict, or to control demonstrations. In other instances, the geographical characteristics of the country concerned, the lack of institutional capacity to process large numbers of detainees expeditiously, or the enforcement of migratory regulations and policies, are adduced as arguments to justify or explain these unlawful practices.

4. Enforced disappearances, including so-called short-term enforced disappearances, can also occur outside of criminal proceedings or even outside of any formal proceedings. For example, they can occur in respect of migrants, refugees and asylum-seekers, who are often deprived of their liberty even though detention should be an exceptional measure. In such cases, the detained persons and their families are entitled to all the rights recognized in articles 17 and 18 of the Convention and other international instruments as soon as they fall

¹ [A/HRC/30/38](#), para. 102.

² [CCPR/C/VEN/CO/5](#), para. 23.

³ [A/HRC/57/57](#), paras. 74–82.

⁴ Human Rights Committee, general comment No. 36 (2019); and [CCPR/C/VEN/CO/5](#), para. 23.

under the control of the authorities, irrespective of the detaining authority or the duration of their deprivation of liberty. In these situations, States should also allow independent monitoring of their borders.⁵

5. Prolonged incommunicado detention has been recognized by the Human Rights Committee as amounting to arbitrary detention in violation of individual liberty, contrary to article 9 of the Covenant,⁶ and to a form of torture in violation of article 7 of the Covenant,⁷ and can also be conducive to enforced disappearance. Secret detention always amounts to enforced disappearance and, as such, is prohibited (art. 17 of the Convention and art. 10 of the Declaration), irrespective of its duration.⁸

6. One of the challenges faced by disappeared persons and their relatives is the misleading perception that an enforced disappearance would require a long passage of time among its constitutive elements. However, the Working Group on Enforced or Involuntary Disappearances⁹ and the Committee on Enforced Disappearances¹⁰ have confirmed that there is no duration element in the definition of enforced disappearance under international human rights law. The same line is followed by the Human Rights Committee¹¹ and regional mechanisms.¹² Therefore, the obligations incumbent on States under the relevant instruments¹³ are the same regardless of the duration of an enforced disappearance.

7. Forcibly disappeared persons face multiple layers of suffering and trauma. In many cases, without prejudice to the duration of their enforced disappearance, they are tortured and in constant fear for their lives; they are prevented from contacting their relatives or lawyers, being kept in complete isolation from the outside world; and when they are released, they usually endure long-term physical and psychological consequences, which they often do not report due to the fear of reprisal. The relatives of disappeared persons also face different harms, anguish and suffering when they do not have information about the fate or whereabouts of the person who has disappeared. In many situations, when an enforced disappearance lasts for a limited period of time, victims cannot access prompt and effective remedies, either at the national or the international level. The traditional remedies may take too long to be triggered and implemented. Due to their limited time frame, most cases of so-called short-term enforced disappearance are underreported and invisible, since they do not appear in statistics, and the perpetrators enjoy impunity without there being an effective investigation, or sanctions, or reparation for the victims.

8. States should establish and implement specific mechanisms, policies and actions to fulfil their obligation to clearly identify so-called short-term enforced disappearance, to search for the disappeared person, and to ensure that the rights to truth, justice and reparation are guaranteed in all cases of enforced disappearance, including those lasting for a limited period of time.

⁵ Committee on Enforced Disappearances, general comment No. 1 (2023), para. 33.

⁶ Human Rights Committee, general comment No. 35 (2014), para. 56.

⁷ *Mukong v. Cameroon* (CCPR/C/51/D/458/1991), para. 9.4; *El-Megreisi v. Libyan Arab Jamahiriya* (CCPR/C/50/D/440/1990), para. 5.4; and Human Rights Committee, general comment No. 20 (2009), para. 11. See also General Assembly resolution 68/156, para. 27.

⁸ A/HRC/13/42, para. 28.

⁹ See, for instance, A/HRC/48/57, para. 60 (c); A/HRC/45/13, para. 97; and A/HRC/39/46, para. 143.

¹⁰ *Yrusta v. Argentina* (CED/C/10/D/1/2013), para. 10.3.

¹¹ Human Rights Committee, general comment No. 36 (2019); CCPR/C/VEN/CO/5, para. 23; *Drif and Rafrat v. Algeria* (CCPR/C/135/D/3321/2019); and *Tharu et al. v. Nepal* (CCPR/C/114/D/2038/2011).

¹² Inter-American Convention on Forced Disappearance of Persons, art. 2.

¹³ International Convention for the Protection of All Persons from Enforced Disappearance, arts. 4–24. See also Declaration on the Protection of All Persons from Enforced Disappearance, arts. 2–9; and International Covenant on Civil and Political Rights, arts. 6, 7, 9 and 16 read alone and in conjunction with art. 2 (3).

III. Prevention of so-called short-term enforced disappearances

9. Under international human rights law, and specifically within the legal framework concerning enforced disappearances, measures have been developed that are key to preventing any form of enforced disappearance, regardless of its duration. These include guarantees for persons deprived of their liberty (art. 9 (1)–(4) of the International Covenant on Civil and Political Rights and art. 17 (2) of the Convention); keeping updated official, accessible and centralized registers (art. 17 (3) of the Convention and art. 10 (3) of the Declaration); the prohibition of secret detention (art. 9 (1) of the International Covenant on Civil and Political Rights, art. 17 (1) of the Convention and art. 10 of the Declaration); and guarantees upon release (art. 21 of the Convention and art. 11 of the Declaration).

10. Another important preventive measure is providing all persons with a legitimate interest, including family members and lawyers, with access to all relevant information relating to the deprivation of liberty, including transfers (arts. 18, 19 and 20 of the Convention and art. 10 (2) of the Declaration). To prevent so-called short-term enforced disappearances, it is crucial that the information is accurate and accessible and is provided promptly. Although making the information available and providing it is a key preventive measure, a formal or informal request for information is not necessary in order for a particular situation to be considered an enforced disappearance, as long as all the constitutive elements are met.

11. In order to effectively prevent a so-called short-term enforced disappearance, law enforcement officials depriving a person of liberty must inform the prosecutorial or judicial authorities promptly and within the time frame provided by law. The State also has the obligation to allow the person deprived of liberty to notify their family or a lawyer of their choice (art. 9 of the International Covenant on Civil and Political Rights, art. 17 (2) of the Convention and art. 10.2 of the Declaration).¹⁴ Although national legislation may vary, when the period of time in which a person should already have been brought before a judicial or administrative authority to verify the lawfulness of his or her detention has elapsed¹⁵ and the person has not been brought before the competent authority, there can be no question that he or she has been placed outside the protection of the law and therefore subjected to enforced disappearance.

IV. Role of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances in identifying, preventing and combating so-called short-term enforced disappearances

12. Due to their duration, so-called short-term enforced disappearances pose particular challenges as regards access to domestic authorities and international mechanisms and, as such, may not reach the Committee on Enforced Disappearances under article 30 of the Convention and the Working Group on Enforced or Involuntary Disappearances under its urgent procedure, notably because the duration of the enforced disappearance in question might not allow these procedures to be triggered in time. There are also challenges as regards lodging a complaint under article 1 of the Optional Protocol to the International Covenant on Civil and Political Rights due to lack of proof, non-recognition of the so-called short-term enforced disappearances at the domestic level and/or lack of cooperation by the State.

13. The Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances invite United Nations treaty bodies to include enforced disappearances lasting for a limited duration of time in their lists of issues and reviews within the State reporting procedure, and invite special procedures of the Human Rights Council

¹⁴ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, para. 2.

¹⁵ The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has repeatedly stated that relatives should receive notification within 18 hours (see [A/68/295](#), para. 41; and [E/CN.4/2003/68](#), para. 26 (g)).

and other human rights bodies to take this human rights violation into consideration in the implementation of their mandates.

14. The Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances use all the procedures at their disposal, including the reporting obligations, individual communications, statements and urgent actions, in order to raise awareness about the so-called short-term enforced disappearances and to call upon the States and other actors potentially involved to respect international human rights law.

V. Conclusion

15. The Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances recall that enforced disappearance constitutes a grave human rights violation regardless of its duration and that States must fully comply with their obligations with respect to all enforced disappearances.
