

Note for the facilitator

Module 4: Criminalization, prevention, investigation, the search for disappeared persons and the rights of victims

Session sequence	<ol style="list-style-type: none"> 1. PowerPoint presentation (20 minutes); 2. Case study – individual work (20 minutes); 3. Case study – group work (40 minutes); 4. Break (30 minutes); 5. Debriefing in plenary (50–75 minutes); 6. Wrap-up (10 minutes).
Total duration	170–195 minutes (including 30 minutes break)
Venue requirements	Spacious training hall arranged in such a way as to promote peer-to-peer atmosphere; preferably round tables with 4 to 5 persons at each table (maximum of 25 participants).
Equipment	<ul style="list-style-type: none"> • Video projector and screen • Laptop or computer with DVD drive or good Internet connection • Speakers with 2–3 microphones (ideally wireless) • Flip charts and markers
Training materials	<ul style="list-style-type: none"> • PowerPoint presentation • Handout for participants
Online adaptation	<p>The session can be adapted to be held online as follows:</p> <p>Step 1: Start with the presentation and go through the PowerPoint slides.</p> <p>Step 2: Divide the participants into four breakout groups if the IT platforms allow for it or alternatively ask all participants with names starting from A–E (working group 1 (definition and criminalization of enforced disappearance)); F–L (working group 2 (measures to prevent enforced disappearance)); M–S (working group 3 (investigation and prosecution of enforced disappearance)); and T–Z (working group 4 (victims’ rights and measures of reparation, wrongful removal of children and the search for disappeared persons) to read the case.</p> <ul style="list-style-type: none"> • The hypothetical case is sent to participants in a separate file through the chat box if the IT platforms allow or alternatively through email.

	<p>Step 3: Ask each working group to discuss the issues assigned to them (see step 2) and to designate a rapporteur who will write their findings in the chat box and present them in the plenary.</p> <p>Step 4: Break</p> <p>Step 5: Debrief</p> <p>Step 6: Wrap-up</p> <ul style="list-style-type: none"> • Show key messages, for example on a preprepared PowerPoint slide
<p>Background reading for facilitators</p>	<ul style="list-style-type: none"> • Section III of part I of the training guide • Working Group on Enforced or Involuntary Disappearances, best practices on enforced disappearances in domestic criminal legislation • Working Group on Enforced or Involuntary Disappearances, report on standards and public policies for an effective investigation of enforced disappearances • Committee on Enforced Disappearances, guiding principles for the search for disappeared persons • Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (adopted by the General Assembly in its resolution 60/147 of 16 December 2005) • Updated set of principles for the protection and promotion of human rights through action to combat impunity (see also resolution 2005/81 of 21 April 2005 of the Commission on Human Rights) • OHCHR, Enforced or Involuntary Disappearances, Fact Sheet No. 6/Rev.3

Learning objectives

By the end of this session, participants will be able to:

- Explain the definition of, and States parties' obligations concerning, the criminalization of enforced disappearance under the Convention
- Describe the measures to be taken under the Convention to implement the obligation to prevent enforced disappearance
- Describe the obligations under the Convention with respect to investigation and prosecution of enforced disappearances
- Explain the obligation to search for disappeared persons
- Explain the notion of victims of enforced disappearance and the corresponding rights pursuant to the Convention

- Describe the legal framework on enforced disappearance and wrongful removal of children and the corresponding obligations

Session preparations

In advance of the session:

- Prepare copies of the case study for participants. You can also prepare a different situation that is more pertinent to a specific country context
- Write the key messages on large sticky notes

Session sequence

Step 1: Participatory presentation

Duration: 20 minutes

- Go through the PowerPoint presentation to briefly present the main points (cross-reference to modules 1, 3 and 7). Since it is a long presentation, it is advisable to include diverse techniques to keep the participants engaged (i.e. brainstorming, quiz, visual aids).

Step 2: Case study – individual work

Duration: 5 minutes

- Divide participants into four groups and assign one legal issue to each group.
- Ask the participants to carefully read the case study and identify the main legal issues assigned to their working group (working group 1 on the definition and criminalization of enforced disappearance; working group 2 on measures to prevent enforced disappearance; working group 3 on investigation and prosecution of enforced disappearance; and working group 4 on victims' rights and measures of reparation, enforced disappearance and wrongful removal of children, and the search for disappeared persons) and relate them to the relevant Convention article(s).

Step 3: Case study – group activity

Duration: 20 minutes

- Ask each group to select a rapporteur.
- Request each group to write on the flip chart the list of States parties' obligations relevant to the situation identified in the case studied.

Step 4: Break

Duration: 30 minutes

Step 5: Debriefing in plenary

Duration: 50–75 minutes

- Ask each rapporteur to brief about the States parties' obligations under the Convention identified in their situation. Other participants can complement.
- Give feedback on the work of each group: did they correctly identify the States parties' obligations at stake?

Step 4: Wrap-up

Duration: 10 minutes

Prepare a large sticky note for each key message, and place each one on the wall or board as you explain the key message. This (very simple) visual aid could help participants to better retain the key messages:

- Definition and criminalization
- Prevention
- Investigation and prosecution
- Search
- Rights of victims
- Enforced disappearance and wrongful removal of children

Key messages for the wrap-up can include the following:

- States parties to the Convention are obliged to criminalize at the domestic level enforced disappearances as a discrete offence and as a crime against humanity as defined by the Convention (i.e. deprivation of liberty, followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, perpetrated by agents of the State or persons or groups of persons acting with the authorization, support or acquiescence of the State), and to make it possible to hold criminally responsible perpetrators, as well as those who order, solicit or induce the commission of, attempt to commit, are accomplices to or participate in an enforced disappearance.
- States parties to the Convention must take steps to prevent enforced disappearance, among other things by building up the institutional framework that can help shape public policies to prevent the commission of enforced disappearances in the future. This holds true for all States, but it is particularly pertinent in relation to those States where at a given time there has been a systematic or widespread practice of enforced disappearance. Such measures must be suitable and effective in achieving concrete results.
- States parties to the Convention must ensure that allegations of enforced disappearance are subjected to a prompt, thorough, independent, impartial and effective investigation, to be launched ex officio, and persons responsible are prosecuted and sanctioned with appropriate penalties.
- States parties should take immediate and urgent action to search for a disappeared person and the corresponding obligation continues until the fate and whereabouts of the person are established with certainty (cross-reference module 7).
- All persons who have suffered harm as the direct result of an enforced disappearance should be regarded as victims and they should be guaranteed the right to know the truth and the right to adequate reparation, including compensation, restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition. States parties should also regulate the legal situation of disappeared persons and their relatives (e.g. through a “certificate of absence due to enforced disappearance”).
- States parties to the Convention must criminalize the act of wrongful removal of children and make it possible to prevent and punish under their criminal law the falsification, concealment or destruction of documents attesting to the true identity of the children concerned. They should also put in place programmes to help adults who believe that they are the children of

disappeared parents to have their true identity re-established and to enable families to have the right to search for children and adolescent victims of enforced disappearance. Adoptions or placements that originated in an enforced disappearance should be annulable.