



Notion of Short-Term Enforced Disappearance: Upholding Human Rights and Combating Impunity

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Report by Women's Network for Change

Introduction:

We, the Women's Network for Change, issue this report with a view to addressing the notion of short-term enforced disappearance. As custodians of human rights, we are committed to promoting accountability, combating impunity, and safeguarding the rights and dignity of all individuals. This aims to provide a comprehensive understanding of short-term enforced disappearance, examine its contexts and implications, explore legal frameworks and practices for prevention and accountability, and highlight the procedural challenges faced by domestic authorities, the Committee, and the Working Group. We extend our gratitude to all stakeholders who have contributed their valuable insights and perspectives to inform a joint statement.

I. Understanding Short-Term Enforced Disappearance:

1.1 Definition and Scope:

Short-term enforced disappearance refers to the illegal detention or abduction of individuals, irrespective of the duration, by state or non-state actors. During such incidents, victims are held in undisclosed locations, denied their legal rights and protections, and deprived of communication with the outside world. This egregious violation of human rights strikes at the core principles of liberty, security, and due process.

What is short-term enforced disappearance?

Short-term enforced disappearance refers to a specific form of human rights violation where individuals are forcibly taken into custody, detained, or held in secret by state agents or individuals acting on behalf of the state for a relatively brief period of time, typically less than a day. During this period, the whereabouts and fate of the individuals are deliberately concealed,

denying them their right to due process, protection under the law, and contact with the outside world.

What distinguishes short-term enforced disappearance from other forms of detention is the intentional effort to hide or deny the fact of the detention, creating an environment of uncertainty and fear for the victims and their families. The practice of short-term enforced disappearance undermines the rule of law, erodes trust in state institutions, and infringes upon fundamental human rights, including the rights to liberty, security, and personal integrity.

Short-term enforced disappearances often occur in various contexts, including but not limited to situations where state authorities aim to suppress political dissent, control public protests, combat terrorism or organized crime, or exert power and control over individuals. These acts can take place during periods of social unrest, armed conflict, or authoritarian regimes where the rule of law and respect for human rights are compromised.

It is important to note that the duration of the disappearance, whether it lasts for hours or days, does not diminish the severity or illegality of the act. The focus is on the deliberate concealment of the detention and the denial of information to the victims and their families, leaving them in a state of anguish, vulnerability, and often subjected to torture, ill-treatment, or other forms of human rights abuses.

The notion of short-term enforced disappearance has gained attention in recent years as international human rights mechanisms, such as the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances, have highlighted its occurrence and emphasized the need for its recognition and prevention. Efforts to address this issue include the development of legal frameworks, the establishment of investigative mechanisms, and the promotion of international cooperation to hold perpetrators accountable and provide justice for victims and their families.

Recognizing and understanding short-term enforced disappearance is crucial in combating this grave human rights violation, ensuring the protection of individuals from arbitrary detention, and upholding the principles of justice, accountability, and the rule of law.

Examples

Examples of short-term enforced disappearances have been reported in various regions and contexts around the world. These examples illustrate the occurrence of this grave human rights violation:

1. **Protest Suppression:** During public protests or demonstrations, state authorities may resort to short-term enforced disappearances as a tactic to intimidate and suppress dissent. Protesters or individuals perceived as threats to the government are apprehended, held in secret for a short period, and later released without any official acknowledgment or information provided to their families or legal representatives.

2. **Counterterrorism Measures:** In the context of counterterrorism operations, some states have been accused of carrying out short-term enforced disappearances. Suspected individuals are forcibly detained, interrogated, and held in undisclosed locations for interrogation purposes. This practice is often justified as necessary for national security, but it violates fundamental human rights and due process protections.
3. **Security Operations:** Law enforcement agencies involved in security operations or maintaining public order have been implicated in short-term enforced disappearances. In these cases, individuals taken into custody during raids or security sweeps are held incommunicado for a brief period, subjected to various forms of abuse or mistreatment, and then released without official acknowledgement or proper documentation of their detention.
4. **Illegal Detention Centers:** Non-state actors, such as paramilitary groups or criminal organizations, have been known to engage in short-term enforced disappearances. They may abduct individuals, hold them captive in hidden locations, and release them after a short period or demand ransom for their release. These acts are typically aimed at exerting control, instilling fear, or extracting information.
5. **Identity Verification or Investigation:** Some authorities justify short-term enforced disappearances to verify identities or conduct investigations. Individuals may be detained briefly, often without legal basis, to gather information or ascertain their involvement in criminal activities. These cases often involve arbitrary detention, lack of due process, and the denial of contact with the outside world.

It is important to note that these examples are not exhaustive, and short-term enforced disappearances can occur in various other contexts. The common thread among these examples is the intentional concealment of the detention, the denial of rights and information, and the infliction of fear, uncertainty, and psychological trauma upon the victims and their families.

1.2 Patterns and Contexts:

Short-term enforced disappearances occur in various contexts around the world. They often involve individuals who are apprehended by state agents, sometimes for durations as brief as a few hours or less, and subjected to concealment, refusal to acknowledge their detention, or a lack of information regarding their fate or whereabouts. These cases frequently arise in the context of public protests, national security control activities, counterterrorism efforts, or other situations where state authorities claim the need to combat threats to national security, organized crime, or terrorism. However, it is essential to stress that the absence of a minimum time requirement does not absolve states of their obligations to uphold human rights and ensure due process for all individuals.

II. Legal Frameworks and Practices:

2.1 Compliance with International Human Rights Standards:

States must recognize that short-term enforced disappearance is an egregious violation of human rights and contravenes international legal standards, including the International Convention for the Protection of All Persons from Enforced Disappearance. This Convention, ratified by numerous states, explicitly prohibits enforced disappearances in all its forms, regardless of duration. States should align their domestic legislation with international human rights standards to ensure the effective prevention and prosecution of short-term enforced disappearances.

2.2 Legal Frameworks and Practices Leading to Short-Term Enforced Disappearances:

Certain legal frameworks and practices may contribute to the occurrence of short-term enforced disappearances. These include ambiguous or overly broad counterterrorism or national security laws, which provide authorities with excessive powers to detain individuals without adequate safeguards. Additionally, inadequate oversight mechanisms, lack of transparency, and weak accountability measures can enable state agents to perpetrate short-term enforced disappearances with impunity.

2.3 Legal Frameworks and Practices Preventing Short-Term Enforced Disappearances:

To prevent short-term enforced disappearances, states should establish robust legal frameworks and institutional mechanisms. These should include the criminalization of enforced disappearance, the establishment of independent oversight bodies to monitor detention practices, the strict adherence to habeas corpus principles, and the implementation of comprehensive training programs for law enforcement and security forces on human rights, including the prohibition of enforced disappearance. Moreover, states should ensure the effective functioning of judicial systems, provide legal aid, and support to victims, and facilitate access to remedies and reparations.

III. Procedural Challenges:

3.1 Documentation and Reporting:

One of the main procedural challenges when dealing with short-term enforced disappearances is the documentation and reporting of such cases. Domestic authorities, the Committee, and the Working Group must establish effective mechanisms for documenting and reporting instances of short-term enforced disappearance. Accurate and comprehensive data collection enables a deeper understanding of the scope and patterns of this phenomenon, facilitates informed decision-making, and supports targeted interventions. It is crucial to develop

standardized protocols for gathering information from victims, witnesses, and relevant stakeholders, ensuring confidentiality and protection for those who come forward with information.

3.2 Cooperation and Information Sharing:

Enhanced cooperation and information sharing between states, civil society organizations, and international human rights mechanisms are essential for effectively addressing short-term enforced disappearance. States should respond promptly to requests for information from the Committee and the Working Group, providing accurate and detailed reports on investigations, prosecutions, and measures taken to prevent future cases. International and regional human rights bodies should collaborate to exchange best practices, share experiences, and coordinate efforts to address this issue comprehensively.

3.3 Victim and Witness Protection:

Ensuring the safety and protection of victims and witnesses is a critical procedural consideration when dealing with short-term enforced disappearances. Domestic authorities, the Committee, and the Working Group must prioritize the provision of effective witness protection measures, including relocation, anonymity, and psychosocial support. Victims and witnesses should be empowered to participate actively in investigations and legal proceedings without fear of reprisals or further harm.

3.4 Remedies and Access to Justice:

One of the key procedural challenges is ensuring that victims of short-term enforced disappearance have access to justice and effective remedies. Domestic authorities should establish specialized mechanisms or courts to handle cases related to enforced disappearances promptly. These mechanisms should be equipped with the necessary resources, expertise, and independence to conduct impartial investigations and prosecute perpetrators. Victims and their families should have access to legal aid, including assistance in navigating the judicial system, and be provided with compensation, restitution, and rehabilitation measures.

3.5 International Cooperation in Investigations:

Given the transnational nature of enforced disappearances, international cooperation is crucial in investigating cases of short-term enforced disappearance. States should cooperate with each other in sharing information, extraditing suspects, and providing mutual legal assistance. The

Committee and the Working Group should play a facilitative role in fostering international cooperation, assisting states in establishing channels of communication, and encouraging the exchange of information and best practices in investigations and prosecutions.

Conclusion:

In conclusion, this report serves as a resolute call to action in addressing the notion of short-term enforced disappearance. It is incumbent upon all states, international human rights mechanisms, civil society organizations, and stakeholders to join forces in upholding human rights, combating impunity, and safeguarding the dignity and well-being of all individuals.

The understanding of short-term enforced disappearance requires a holistic approach that transcends any artificial time constraints. Regardless of the duration, every instance of enforced disappearance represents a severe violation of human rights, depriving individuals of their freedom, subjecting them to untold suffering, and denying them access to justice.

To effectively prevent and address short-term enforced disappearances, states must prioritize compliance with international human rights standards. This entails enacting comprehensive legal frameworks that criminalize enforced disappearance, establish robust oversight mechanisms, and ensure the strict adherence to fundamental principles of due process and habeas corpus. Such measures must be accompanied by comprehensive training programs for law enforcement and security forces, promoting a culture of human rights and accountability.

Crucially, addressing short-term enforced disappearance necessitates a commitment to procedural excellence. Domestic authorities, the Committee, and the Working Group must enhance their efforts to document and report cases accurately, encouraging the sharing of information and experiences between states and international human rights bodies. Protecting victims and witnesses, providing access to justice, and offering effective remedies are vital elements in dismantling the culture of impunity that perpetuates enforced disappearance.

Furthermore, international cooperation and collaboration are indispensable in investigating and prosecuting cases of short-term enforced disappearance. States must engage in mutual legal assistance, extradition, and information sharing to ensure that perpetrators are held accountable, regardless of borders. The Committee and the Working Group should continue to play a pivotal role in facilitating such cooperation and fostering dialogue among states.

By issuing a joint statement, we reaffirm our unwavering commitment to eradicating the scourge of short-term enforced disappearance from our societies. We stand united in our pursuit of a world where no individual is subjected to arbitrary detention, where the rights and freedoms of all are respected, and where justice prevails. Only through concerted efforts, collaboration, and unwavering dedication can we create a future where the darkness of enforced disappearance gives way to the light of truth, justice, and human rights for all.

