# Maat’s Commentary on the Draft Statement on “Non-State Actors and Enforced Disappearances in the Context of the Convention for the Protection of All Persons from Enforced Disappearance”

Introduction:

Recently, the challenges faced by international human rights law has increased when dealing with grave human rights violations committed by non-state actors, especially after the increase in criminal acts committed by terrorist and armed groups in conflict areas, especially in the Middle East. These acts may include crimes against humanity, topped by enforced disappearance, which definition in the International Convention for the Protection of All Persons from Enforced Disappearance does not include a clarification of the direct responsibility of non-state actors for that crime. Based on Maat’s for peace, development, and human rights belief that the international legal framework for human rights must be modified to fit reality, Maat shares this written comment on **the draft statement on “Non-State Actors and Enforced Disappearances in the Context of the International Convention for the Protection of All Persons from Enforced Disappearance**.” It hopes that what is discussed by Maat in this written comment will contribute to the final version of the project to ensure the cessation of enforced disappearance crimes committed by armed and terrorist organizations without punishment or accountability for the perpetrators.

The concept of non-state actors

There is no clear definition in the International Convention for the Protection of All Persons from Enforced Disappearance of non-state actors. They are referred to as persons or groups of persons who are not agents of the state. This definition allows for the impunity of many terrorist and armed groups for the crimes of enforced disappearance they commit. This definition also ignores the de facto authorities deployed in many regions that are implicated in enforced disappearance crimes.

Perhaps, the operations carried out by the Houthi group in Yemen, which deprive citizens of their freedoms and does not acknowledge their responsibility for these operations is the best proof of that. The group uses enforced disappearance to threaten opposition and human rights activists to remain silent about the humanitarian crimes committed by the organization or not to object to the organization's political positions on the Yemeni political scene or win the support of tribes and people through bargaining. The security forces of the organization raid the homes of political opposition, journalists, and human rights activists, kidnapping them and not allowing their families to communicate with them without a specific legal basis. From 2015 until July 2020, the Houthi group disappeared 353 people. In 2021, it forcibly disappeared more than 92 people, including women and children[[1]](#footnote-1), bringing the final number of people who disappeared by the Houthi authorities to approximately 450 people from the beginning of the conflict until the end of 2021.

**In this context, Maat proposes to amend the definition of the crime of enforced disappearance in the agreement to include explicit phrases by placing the de facto authorities as an actor without the states responsible for enforced disappearances, with reference to terrorist groups and security and private military companies that practice enforced disappearances, in light of impunity and lack of legal accountability.**

Enforced disappearances by non-state actors in the context of Article 2

Many facts have spread recently to indicate the persistence of the disappearance of dozens of people against their will at the hands of armed groups affiliated with governments, especially in the various armed conflicts. In Ukraine, armed groups across the country have been implicated in the kidnapping and sometimes torturing of citizens in secret detention centers. Those government-affiliated groups such as the Ukrainian Tornado Battalion or armed brigades representing the de facto authorities in the Donetsk and Luhansk region. Most of the enforced disappearances of people were perpetrated in the armed conflicts that erupted in the country in 2014 and 2015[[2]](#footnote-2). Accountability has also been absent for grave violations of enforced disappearance, as many people have suffered from the prevailing climate of impunity[[3]](#footnote-3). According to the information documented by various human rights assessments, only a few state officials were convicted of the crime of enforced disappearance[[4]](#footnote-4). On the other hand, many countries have begun to rely on private security companies, especially in armed conflicts, to achieve their military objectives. However, these companies are implicated in many cases of enforced disappearance with impunity[[5]](#footnote-5).

**Maat affirms that it agrees with all of the provisions of Article Two of the Convention, which condemns the state's support for armed groups or organizations that act with the knowledge to commit the crime of enforced disappearance. However, with the increasing use of military companies to practice enforced disappearance, Maat would like to explicitly refer to the responsibility of states for the activities of these companies.**

Enforced disappearances by non-state actors in the context of Article 3

Maat is concerned about the increase in enforced disappearances carried out by non-state armed and terrorist groups in many armed conflicts, especially in the Middle East. Many cases of enforced disappearance are committed in light of human trafficking, especially by armed groups, on the border between the United States of America and Mexico[[6]](#footnote-6). Meanwhile, after the terrorist organization, ISIS seized many vast territories in Iraq, it began to practice the crime of enforced disappearance from 2014 to 2017. Among the victims were individuals believed to be critical of ISIS, individuals belonging to or formerly affiliated with the Government of Iraq, doctors, lawyers Journalists, tribal and religious leaders, and political candidates. In addition to targeting religious minorities, especially the Yazidi sect, whose women were hidden and sold in the slave market[[7]](#footnote-7). As such, thousands of victims of enforced disappearance at the hands of ISIS are still missing, and their kidnappers have not been held accountable[[8]](#footnote-8).

There are still more than 2,000 forcibly disappeared persons with Hayat Tahrir al-Sham***[[9]](#footnote-9)***, including 65 people who disappeared in 2021 in isolation from the world and without any evidence or legal basis to prove that***[[10]](#footnote-10)***. The group controls large areas of northwestern Syria and forcibly hides all the people who are subjected to it, without any legal basis. In Nigeria, the jihadist terrorist group Boko Haram has committed numerous human rights abuses, including enforced disappearances of its opponents***[[11]](#footnote-11)***. The group kidnaps girls to traffic them into the slave market without informing their families***[[12]](#footnote-12)***. This approach, in Maat's opinion, represents a practice of enforced disappearance that should be studied by the Committee.

**Maat requests the committee to reconsider the definition of enforced disappearance and expand its scope to include non-state actors, especially terrorist groups. It also suggests that the crimes of abduction of girls by terrorist groups be discussed as crimes of enforced disappearance that meet the conditions of the crime.**

Enforced disappearance at the hands of armed gangs

Recently, there has been an increase in kidnappings carried out by armed and criminal gangs for people opposed to their behavior. However, the International Convention for the Protection of Persons from Enforced Abduction does not treat these cases as enforced disappearance, which increases the brutality of the crime and deprives victims and their families of the legal and social recognition they deserve. In Mexico, for example, the government announced in May 2022 that the number of missing persons in the country between 1964 and 2022 exceeded one hundred thousand people due to the violence of gangs linked to drug smuggling. These cases are compounded by the law enforcement authorities' disregard for the phenomenon and the impunity of criminals*[[13]](#footnote-13)*.

**In light of this, Maat suggests that the inclusion of kidnappings carried out by armed and criminal groups in the light of their denial of responsibility should be discussed as cases of systematic enforced disappearance that they practice without accountability*.***

1. جرائم الحوثيين 1134 حالة اختطاف و976 اختفاء قسري في عام باليمن، صوت الأمة ، فبراير ٢٠٢٢ ، <https://bit.ly/3bMcPg1> [↑](#footnote-ref-1)
2. Unlawful detentions and torture committed by Ukrainian side in the armed conflict in Eastern Ukraine. truth-hounds. <https://bit.ly/3NG8UhO> [↑](#footnote-ref-2)
3. Ukraine’s Forgotten Missing and Disappeared. the International Commission on Missing Persons (ICMP). <https://bit.ly/3OnNRSa> [↑](#footnote-ref-3)
4. Preliminary observations of the Working Group on Enforced or Involuntary Disappearances at the conclusion of its visit to Ukraine (11-20 June 2018) . UN Human Rights. <https://bit.ly/3QGP88U> [↑](#footnote-ref-4)
5. Working Group on Enforced Disappearances the Atrocious Crime of Enforced Disappearance Continues to Happen and Takes New Shapes and Forms. <https://bit.ly/3OWcRAc> [↑](#footnote-ref-5)
6. Non-State Actors and Enforced Disappearances: Defining a Path Forward. geneva-academy. <https://bit.ly/3uhxKhi> [↑](#footnote-ref-6)
7. The Forever Crime Ending enforced disappearance in Iraq. Ceasefire. <https://bit.ly/3nByH05> [↑](#footnote-ref-7)
8. We found nothing:’ Thousands of IS victims still missing**. Apnews.** [**https://bit.ly/3yhrnvP**](https://bit.ly/3yhrnvP) [↑](#footnote-ref-8)
9. أكثر من 6000 شخص مغيبون في سجون هتش منذ عام 2014، وقرابة 2000 منهم مصيرهم مجهول، <https://bit.ly/3JREIzZ> [↑](#footnote-ref-9)
10. تم الاعتماد على التقديرات الشهرية الخاص بمؤسسة انتهاكات جبهة النصرة والتي تصدر بشكل شهري على صفحتها بمواقع التواصل الاجتماعي <https://bit.ly/3qMk7Eh> [↑](#footnote-ref-10)
11. مدعية المحكمة الجنائية الدولية تريد التحقيق في أعمال العنف في نيجيريا، WI swissinfo.ch - إحدى الوحدات التابعة لهيئة الاذاعة والتلفزيون السويسرية، <https://bit.ly/3IeGdb2> [↑](#footnote-ref-11)
12. *كيف تسببت تغريدة في تشجيع جماعة بوكو حرام على اختطاف مزيد من الفتيات النيجيريات؟، العربي بوست ،*[***https://bit.ly/3OGQrDn***](https://bit.ly/3OGQrDn) [↑](#footnote-ref-12)
13. *بسبب العصابات وتهريب المخدرات: 100 ألف مفقود في المكسيك خلال 58 عاماً ، مونت كارلو الدولية ، مايو ٢٠٢٢ ،* <https://bit.ly/3I8vYF3> [↑](#footnote-ref-13)