

HOW DOES THE ELECTORAL ENVIRONMENT CONTRIBUTE TO THE OCCURRENCE OF ENFORCED DISAPPEARANCES?

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Providing a definitive answer regarding a global increase in enforced disappearances worldwide is challenging due to variations in data availability and transparency from one country to another. In some contexts, an increase in enforced disappearances has been reported over the past decades, particularly in regions grappling with armed conflicts, political crises, or widespread human rights violations. Periods of political unrest, government repression, or violence are often associated with a rise in cases of enforced disappearances¹.

Before delving into the study of enforced disappearances in an electoral context, it seems necessary to define what is meant by the term "enforced disappearance." Enforced disappearance is a serious crime and a violation of human rights defined by international law. According to the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the United Nations General Assembly in 1992, enforced disappearance is defined as follows² :

Deeply concerned that in many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law,

¹ We will see, the deterioration of security during an electoral context in a country is one of the causes that fosters enforced disappearances. However, other factors, related or unrelated to the electoral context, should also be taken into account: economic situation, gender-based violence or sexual orientation, ethnic or religious conflict, etc.. It is difficult to conduct a comprehensive study of this phenomenon. For more information, refer to the work of the Working Group on Enforced or Involuntary Disappearances.

² General Assembly, *Declaration on the Protection of All Persons from Enforced Disappearance*, A/RES/47/133, 1^{er} February 1993.

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Electoral periods represent moments of considerable tension, where political stakes are heightened, and competing interests intensify. In some cases, precarious economic and social contexts can create fertile ground for the commission of reprehensible acts. In states where corruption and police repression are commonplace, pressures to obtain favorable political outcomes can lead to human rights violations, including enforced disappearances. Additionally, economic interests and foreign investments can add an extra dimension to tensions, as different actors seek to protect their interests and influence electoral outcomes. For this reason, enforced disappearances can occur during these times, both as causes and consequences of elections. However, solutions are conceivable to combat this phenomenon.

Forced disappearances: a political instrument fostering the establishment of an atmosphere of insecurity conducive to instability.

The use of enforced disappearance as a means to eliminate political opponents has been observed in numerous historical contexts, highlighting a troubling and recurring trend. For example, during the military dictatorship in Argentina in the 1970s and 1980s, thousands of individuals considered to be regime opponents were abducted by security forces and subsequently disappeared without a trace³. These enforced disappearances were part of a broader strategy aimed at suppressing any form of political opposition and instilling terror in society. Pregnant women were abducted and held until they gave birth before being executed, while their babies were often handed over to families supportive of the regime⁴. Similarly, in South Africa during apartheid, government security forces resorted to enforced disappearances to eliminate anti-apartheid activists and political opponents. People were abducted, tortured, and killed, with their bodies often buried in secret locations or thrown into rivers to conceal evidence of their crimes⁵. These poignant examples illustrate the cruelty and extent of the use of enforced disappearance as a tool of political repression to maintain power.

³ David M. K. Sheinin, « Continual justice in Argentina: Four wraiths of military rule », *Témoigner. Entre histoire et mémoire*, 122 | 2016, 152-161.

⁴ “Children of Argentina’s ‘Disappeared’ Reclaim Past, with Help (Published 2015),” (2024) *The New York Times*.

⁵ Kylie Thomas, « Exhuming Apartheid: Photography, Disappearance and Return », *Cahiers d’études africaines* [En ligne], 230 | 2018, mis en ligne le 01 juin 2020, consulté le 23 février 2024. URL : <http://journals.openedition.org/etudesafriaines/22209>; DOI : <https://doi.org/10.4000/etudesafriaines.22209>

The intimidation of human rights activists and critical journalists is another alarming manifestation of the use of enforced disappearance to suppress any form of dissent and criticism. In many countries, human rights defenders and journalists who speak out against government abuses or document human rights violations are often faced with threats, acts of intimidation, and sometimes even enforced disappearances. For example, in Russia, several government-critical journalists have been victims of enforced disappearances or have been killed in suspicious circumstances after exposing corruption and abuses of power. Similarly, in countries like Mexico and the Philippines, human rights activists who combat human rights violations committed by security forces or criminal groups are regularly harassed, threatened, and sometimes abducted by non-state actors acting with impunity. These acts of intimidation aim to silence those who dare to speak out against abuses of power and to create a climate of fear and silence in society, thereby undermining the foundations of democracy and the rule of law.

Forced disappearance can also be used as a tool to discredit certain candidates and rival political parties during electoral periods. In some contexts, the ruling forces may seek to undermine the legitimacy of their opponents by creating an atmosphere of insecurity and chaos through acts of forced disappearance. For example, key members of opposition parties or government-critical candidates may be abducted and then clandestinely detained or killed, casting doubt on these parties' ability to ensure the safety of their members and supporters⁶. These acts can be used to discredit opposing political parties by associating them with instability and violence, which can negatively influence public opinion and weaken their electoral support. By creating a climate of fear and uncertainty, the authorities in power may also seek to discourage electoral participation and manipulate the results in favor of their own interests. In Nigeria under the regime of Abacha in the 1990s, several political opponents, including the renowned activist Ken Saro-Wiwa, fell victim to forced disappearances and extrajudicial executions to prevent their participation in democratic processes⁷. Additionally, in Pakistan, forced disappearances have been used as a means to suppress protest movements and discredit opposition political parties, with activists and political leaders

⁶ Most often, these acts are not isolated. They are part of a broader campaign aimed at discrediting political opponents and human rights defenders.

⁷ Anderson, Janet H (2022) "The Unresolved Responsibility of Big Oil Companies in Nigeria," *JusticeInfo.net*, <https://www.justiceinfo.net/en/89238-unresolved-responsibility-big-oil-companies-nigeria.html> (accessed 23 February 2024).

being abducted during periods of political turmoil and instability⁸. Consequently, these tactics can undermine the credibility and integrity of the electoral process, thus undermining fundamental democratic principles.

What solutions can be implemented to limit the phenomenon of enforced disappearances in electoral contexts?

During electoral periods, human rights monitoring plays a crucial role in ensuring the integrity of democratic processes. By engaging impartial, independent, and well-trained national and international observers, it is possible to closely monitor the adherence to fundamental rights, including freedom of expression, freedom of association, and the right to a fair trial. These observers play an essential role in scrutinizing the conduct of elections, identifying any cases of enforced disappearance or other human rights violations, and providing detailed reports to raise awareness among the public and the international community. Additionally, the establishment of reporting and monitoring mechanisms, such as emergency hotlines and online platforms, enables citizens to safely and confidentially report incidents of human rights abuses. By strengthening human rights monitoring during electoral periods, it is possible to promote transparency, accountability, and respect for fundamental democratic principles⁹. Monitoring cases of enforced disappearances during electoral periods is essential to ensure the protection of human rights and the integrity of democratic processes. Competent authorities, including national human rights bodies, civil society organizations, and international observers, must maintain constant vigilance to identify and document any suspected cases of enforced disappearance. This requires the establishment of effective reporting mechanisms, such as emergency hotlines and secure online platforms, allowing victims, their families, and witnesses to quickly report disappearances. Moreover, it is crucial to conduct transparent, impartial, and thorough investigations into each reported case, ensuring that alleged perpetrators are held accountable for their actions.

⁸ “End Pakistan’s Enforced Disappearances,” (2021) *Human Rights Watch*, <https://www.hrw.org/news/2021/03/22/end-pakistans-enforced-disappearances> (accessed 23 February 2024).

⁹ However, implementing transparency measures proves to be challenging. They require the approval of the State, which can be problematic in an electoral context where the ruling power might fear that transparency compromises its control over the process.

It is incumbent upon governments to ensure the security of political candidates and human rights activists during electoral periods. This entails implementing adequate security measures to protect individuals against threats, acts of violence, and potential reprisals related to their political engagement or human rights advocacy. Authorities must take proactive steps to prevent attacks against candidates and activists, such as providing appropriate police protection, monitoring potential threats, and imposing severe sanctions on those who seek to intimidate or attack individuals involved in the democratic process¹⁰. By guaranteeing the security of candidates and activists, governments can foster an inclusive, open, and democratic political environment where fundamental rights are respected, and where everyone can freely participate in electoral processes without fear of retaliation¹¹.

It is imperative to combat impunity for those responsible for enforced disappearances in order to prevent such acts in the future and ensure justice for the victims and their families. Governments must take decisive action to investigate each case of enforced disappearance, identify the alleged perpetrators, and prosecute them before independent and impartial courts. This requires the establishment of effective investigation mechanisms, such as independent inquiry commissions, tasked with gathering evidence, interviewing witnesses, and pursuing suspected perpetrators¹². Additionally, it is essential to ensure that victims and their families have access to effective remedies, including appropriate reparations, compensation, and rehabilitation measures, to address the harm suffered and promote their recovery. By combating impunity for those responsible for enforced disappearances, governments can strengthen the rule of law, promote respect for human rights, and contribute to preventing future abuses of power.

It is crucial to raise awareness among the population about the risks of enforced disappearances during electoral periods in order to prevent such acts and protect the

¹⁰ This interpretation arises from the obligation set forth by Article 3 of the International Convention for the Protection of All Persons from Enforced Disappearance: “Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.”, General Assembly of the United Nations, *International Convention for the Protection of All Persons from Enforced Disappearance*, 23 December 2010.

¹¹ As seen recently, it is sometimes the State itself that is guilty of such actions, and the reluctance to organize a truly free election explains the occurrence of enforced disappearances.

¹² The International Convention for the Protection of All Persons from Enforced Disappearance places the responsibility on States to punish and acknowledge the crimes of enforced disappearances. Although the Convention does not directly provide for the creation of such mechanisms, the responsibility of States to combat enforced disappearances can lead to the establishment of such tools, especially in the case of widespread practice.

rights of citizens. Governments, civil society organizations, media, and other relevant stakeholders must conduct information and awareness campaigns to inform citizens about the potential dangers of enforced disappearance related to their political participation or human rights advocacy activities. These campaigns should highlight early warning signs of enforced disappearance, such as threats, harassment, and intimidation, and provide guidance on measures to protect oneself, such as reporting suspicious incidents to the authorities and seeking support from human rights organizations. By raising awareness among the population about the risks of enforced disappearances, it is possible to strengthen the resilience of citizens, foster a culture of vigilance and solidarity, and contribute to the prevention of such reprehensible acts during electoral periods.

Promoting transparency and integrity in electoral processes is essential to prevent enforced disappearances and ensure free and fair elections. Governments must commit to transparency at every stage of the electoral process, including voter registration, electoral campaigns, voting, ballot counting, and result announcement. This entails implementing independent monitoring and verification measures, such as the presence of national and international observers, to ensure that elections are conducted fairly and impartially. Additionally, it is crucial to safeguard the integrity of the voting process by preventing electoral fraud, vote manipulation, and any other illegal practices that could compromise the legitimacy of the results. Governments must also encourage citizen participation and free expression by ensuring an open and inclusive political environment where the voices of all stakeholders are heard and respected. By promoting transparency and integrity in electoral processes, governments can strengthen public trust in the political system, reduce post-election tensions and conflicts, and contribute to preventing violence and human rights abuses, including enforced disappearances.

Respecting international human rights and justice standards is fundamental to preventing enforced disappearances during electoral periods. Governments must commit to upholding and promoting the principles outlined in relevant international instruments, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Convention for the Protection of All Persons from Enforced Disappearance. This entails guaranteeing the right to liberty and security of the person, the right to a fair trial, and the right to effective remedy before a competent and impartial tribunal in case of human rights violations, including enforced disappearances. Governments must also fully cooperate

with United Nations monitoring and reporting mechanisms and other international bodies responsible for monitoring human rights compliance and holding member states accountable for violations. By adhering to international human rights and justice standards, governments can strengthen the rule of law, promote accountability, and ensure the protection of citizens' fundamental rights, including the right to free and fair elections free from enforced disappearances.

CONCLUSION

In a context where electoral processes are often tainted by violence, threats, and repressive practices, preventing enforced disappearances becomes a crucial priority to ensure free, fair, and democratic elections. The plan developed aims to address this complex issue by adopting a multifaceted approach focused on awareness, prevention, and intervention:

- Promoting transparency and integrity in electoral processes constitutes a first essential pillar. By ensuring independent monitoring, citizen participation, and combating electoral fraud, governments can build confidence in the political system and reduce pre- and post-electoral tensions.
- Respecting international human rights and justice standards represents another fundamental aspect of the plan. By committing to uphold the principles outlined in relevant international instruments, governments strengthen the rule of law, promote accountability, and guarantee the protection of citizens' fundamental rights.
- Close monitoring of cases of enforced disappearances during electoral periods is also crucial to prevent such acts and ensure justice for the victims. By establishing effective reporting and monitoring mechanisms, authorities can swiftly identify cases of enforced disappearance, investigate alleged perpetrators, and bring them to justice before independent and impartial tribunals.
- Lastly, raising awareness of the risks of enforced disappearances during elections plays a key preventive role. By informing citizens about potential dangers and providing advice on measures to protect themselves, governments enhance individuals' resilience and foster a culture of vigilance and solidarity within society.

In conclusion, the consistent and effective implementation of this plan requires strong commitment from governments, close cooperation with civil society organizations and international partners, as well as political willingness to act decisively in enforcing laws and ensuring accountability.