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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by International
Organization for the Elimination of All Forms of Racial
Discrimination, Association Ma'onah for Human Rights and
Immigration, Union of Arab Jurists, United Towns Agency
for North-South Cooperation, non-governmental
organizations in special consultative status, International
Educational Development, Inc., a non-governmental
organization on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Enforced Disappearances in Latin America

Introduction

For long, states have used enforced disappearances to impose their control over citizens by making them invisible. Enforced disappearances have been used as a method of control and are particularly anchored in the practices of many dictatorships in Latin America during the 20th century, Argentina and Chile being the most horrendous cases, accounting for 30,000 and 3,400 abducted people, respectively, which constitutes a flagrant violation of international human rights laws and standards and a threat to democratic processes.

Because of its history, Latin America has been a pioneer in efforts to combat enforced disappearances through international instruments such as the Inter-American Convention on Forced Disappearance of Persons, the General Assembly resolution 47/133, also known as the Declaration on the Protection of All Persons from Enforced Disappearances, the General Assembly resolution 47/133, named the International Convention for the Protection of All Persons from Enforced Disappearances; and, the Rome Statute which considers enforced disappearances as a crime against humanity.

Enforced disappearances in Latin America

The enforced disappearances of people in Nicaragua are just one of the tactics used by the authorities to silence criticism or opposition. From this, a pattern of arbitrary detentions emerges, leading to enforced disappearances. Police and paramilitary groups are mostly responsible for such acts, especially in rural areas of the country.

The Bolivarian Republic of Venezuela has also seen an increase in enforced disappearances. NGOs such as "Robert F. Kennedy Human Rights", in partnership with local NGOs such as "Foro Penal", estimate the number has risen from 200 cases in 2018 to 524 cases in 2019. According to the report, female detainees are more likely to be forcibly disappeared than male detainees. In 2019, 95% of abducted Military officers reported being tortured. There were more than 230 reports of arbitrary detentions as of June 2020, of which 33 have led to enforced disappearances and fourteen of these victims are still missing.

In 2021's report, the International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela documented 19 arbitrary detentions and short-term forced disappearances of military personnel. Venezuelan President Hugo Chavez created the "General Direction for Counter military Intelligence" and the "Bolivarian National Intelligence Service" between 2010 and 2011. These organizations are primarily responsible for enforced disappearances in the country. Many victims in the documented cases were summoned to military bases under the pretext of an interview or interrogation. Once under state control, they were stripped of their belongings and detained. It was reported that the detaining authorities failed to present arrest warrants, explain the reasons for the charges and fail to identify themselves at the time of the arrest. Detainees were taken blindfolded or hooded by indirect routes, allegedly confusing them about their whereabouts. The report also indicated that the Ombudsman's Office received 22 complaints of enforced disappearances.

Violence against women has been central to the issue of enforced disappearances. According to the Report of the Special Rapporteur on extrajudicial, summary and arbitrary executions on her mission to Honduras, there is particular concern regarding the enforced disappearances of women. Collected data indicated a 281% increase in female disappearances between 2008 (91 cases) and 2013 (347 cases). Although it is not possible to verify if the disappearances were conducted by the state. Correspondingly, Special Rapporteur's report on her mission to El Salvador collected troubling information about the increase in cases of the enforced disappearance of women and men. This may indicate that the homicide rate is even higher than reported, as many cases of enforced disappearance lead to the death of the victim.

Also, the Committee on Enforced Disappearances registered the first request for urgent action concerning Paraguay. The request concerned the alleged enforced disappearance of a young girl during an operation led by the joint police and army task force set up to combat the

Paraguayan People's Army, a guerrilla organization. Besides, after their visit to Mexico, in November 2021, there was a lot of concern over the situation of human rights defenders. And the disappearances of more than 30 journalists between 2003 and 2021, since none of them have been located and some have disappeared due to their participation in search missions and criticism against enforced disappearances.

Migration

The different human rights bodies have allocated greater attention to allegations of disappearances occurring in prisons and migration centers, particularly in countries with large groups of migrants, such as Mexico, where in 2012, the bodies of 72 migrants were found in Tamaulipas, Mexico. In Mexico, evidence reveals that public agents and organized crime are responsible for the surge in enforced disappearances. Therefore, immediate actions must be taken to end the absolute impunity surrounding these crimes.

Enforced disappearances in the context of migration include the enforced disappearance of migrants on their migration journey or upon arrival in the country of destination. enforced disappearance as a cause for migration and related considerations under the principle of non-refoulement. The Committee's report indicates that migrants are far more vulnerable to crimes such as human trafficking for the purpose of sexual exploitation when they set out on migration routes. Regrettably, statistical data on the enforced disappearance of migrants is less readily available, as there are many challenges in investigating such cases, particularly in a cross-border context and considering that many of them lack proper documentation. The Missing Migrants Project of the International Organization for Migration has recorded more than 35,000 migrants who have lost their lives or gone missing since 2014.

During the past year, there were reports that migrants illegally detained in unknown locations had their cell phones confiscated by perpetrators who then demanded money from the families, sometimes with the support or acquiescence of public officials. These reports indicate that greater efforts must be taken to prevent the disappearances of migrants; for instance, the current prosecution rate is 2 to 4%.

Non-State Actors

The official definition of enforced disappearances involves the direct intervention or acquiescence of state agents. Nevertheless, there is debate about whether enforced disappearances can involve non-state actors. For example, Colombia's legislation defines enforced disappearances as not conditioned to state involvement as a precondition for committing the crime. According to the Colombian criminal code, an offence can be committed either by an individual belonging to an armed group, a public official or someone acting under control or with the acquiescence of a state official.

The expansion of the active subject of the crime would reflect the reality of Latin America. For instance, in Colombia, from all the enforced disappearances committed until 2015, just 8% involved the state as a perpetrator, and paramilitary groups committed 0,2% with the help of the state. The other 91,8% involved perpetrators such as guerrillas, paramilitary groups, post-demobilization groups and unidentified armed groups. In its internal legislation, the fact that the country included a broader definition of the crime responds to the reality of years of armed conflict and an explicit intention of protecting the victims.

Broadening the definition to include non-state actors as perpetrators of these crimes would respond to most countries' current situation and provide a solution to the problem of informing authorities when there has to be proof that the state is the one responsible or that the non-state actor is cooperating with the state. International instruments may hold the state internationally accountable for the wrongdoing of non-state actors, since the state may also prosecute or hold to account non-state actors within state territory for violating laws.

Conclusions and recommendations

The signatories to this statement are deeply concerned over the number of enforced disappearances that are taking place on the continent at the present and about the high number of cases where the state is the main perpetrator. Accountability for these violations is vital for civilians to feel safe and protected by their state. Latin American states should take specific and effective measures to prevent the disappearance of individuals and establish effective facilities and procedures to investigate thoroughly, by an appropriate impartial body, cases of missing persons within their territories.

Accordingly, we call on the UN Human Rights Council to:

- Urge Latin American countries to strengthen investigation processes, and provide adequate human and financial support to their National Search Commission and local commissions.
- Ensure systematic and effective coordination of all institutions involved in the search, investigation, and reparation and accompaniment to victims.
- Urge Latin American countries to remove obstacles to prosecutors and to provide due attention to disappearances of migrants, establishing adequate mechanisms in order to identify possible cross-border cases of enforced disappearances.
- Urge governments in Latin America to adopt the Declaration on the Protection of All Persons from Enforced Disappearances and the International Convention for the Protection of All Persons from Enforced Disappearances.
- Call on the General Assembly to broaden the requirements for the protection from enforced disappearances and accept non-state actors as active subjects of the crimes.

Geneva International Centre for Justice (GICJ), Just Atonement Inc., Arab Lawyers Association-UK, Human Rights Defenders (HRD), Brussels Tribunal, Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organization for Justice & Democracy in Iraq (OJDI), Iraqi Centre for Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.