**Maat for Peace’ submission on “the notion of short-term enforced disappearance”**

**Introduction:**

Short-term enforced disappearances poses a growing concern in many countries worldwide; it includes abduction or detention of individuals by State authorities and affiliated groups as well as non-state actors, hiding information about their locations and legal status, denying the fact of their abduction or detention, denial of access to legal representation or communication with family members and other due legal procedures, which takes short periods, usually between a few days and several weeks.

Short-term enforced disappearances occur in different contexts and are driven by multiple factors. It may occur in the context of public protests; in the context of actions taken by law enforcement forces to preserve national security, maintain public order, and combat terrorism; in the context of government authorities targeting individuals who voice opposition to the government, through methods such as intimidation, repression, and discouragement; in the context of criminal investigation, interrogation procedures, and the forced extraction of information and confessions from suspects; or in the context of social control practices by non-state actors to instill fear and control specific population groups within communities, as in the case of the short-term enforced disappearances practiced by the Houthi group in Yemen against the civilian population under its control, to instill fear within them and tighten its control over them.

Although enforced disappearance cases generally have a shorter duration compared to other disappearance cases that can take many years, Maat agrees with the Committee and the working group that "there is no time limit, no matter how short, for the occurrence of enforced disappearance, when a person disappears cause immense suffering, and every minute of the suffering that relatives go through without any news of the person's fate represents a never-ending torment...". Hence, there is an urgent need to address this crucial and thorny issue and to put an end to these highly aggravated practices in many countries around the world, which requires further efforts at the global and international human rights levels to develop a precise concept of the short-term phenomenon of enforced disappearance and criminalize all practices involved. In light of the above, Maat for Peace, Development and Human Rights presents this intervention to the states related to enforced disappearance, by answering the main questions attached to the advocacy as follows:

**Main questions:**

1. **How is the notion of ‘short-term enforced disappearances’ understood and in which contexts do they occur?**

According to Maat's vision, the notion of "short-term enforced disappearance" refers to State or non-State actors abducting or detaining individuals, keeping information about their locations and legal status secret, denying access to rights and legal representation or communication with members of their families and other rights of due legal procedures, which takes short periods of time that may extend between few days to several weeks.

**Also, according to Maat’s vision, short-term enforced disappearances can occur in the following contexts:**

1. **Measures to combat terrorism and maintain state security**: Some Governments and non-State actors use short-term enforced disappearances for maintaining national security, public order, or counter-terrorism efforts, as law enforcement authorities subject individuals suspected of terrorist activities to short-term enforced disappearances as part of investigations or interrogations. In Iraq, for example, security forces, paramilitary groups, and non-state actors, including pro-government and Iran-affiliated Popular Mobilization Forces (PMF), were involved in arbitrary arrests and enforced disappearances targeting thousands of Sunni Arabs suspected of involvement with terrorist organizations in the context of counter-terrorism operations against ISIS between 2014 and 2017[[1]](#footnote-1).
2. **Political repression and intimidation**: Some governments and non-state actors use short-term enforced disappearances as a way to silence dissenting voices, discourage human rights activism, and suppress peaceful protests. Law enforcement forces usually target individuals who criticize the government, political opponents, or human rights defenders to instill fear in society, discourage human rights activity, and prevent the dissemination of dissenting views. In Iraq, for example, government authorities and some non-State actors hid hundreds of activists, demonstrators, and human rights defenders for their human rights activities and their participation in the public protests that erupted in the country between 2018 and 2020. In its fourth report, the UN Assistance Mission for Iraq (UNAMI) Human Rights Office documented that government authorities and non-state actors, including the Popular Mobilization Forces, subjected some 123 people to enforced disappearance in Iraq between 1 October 2019 and 21 March 2020[[2]](#footnote-2).
3. **Criminal investigation and interrogation**: Law enforcement authorities employ temporary enforced disappearances as part of their criminal investigations, particularly when attempting to extract information and confessions from suspects through coercion. During the recent widespread demonstrations in Iran, security forces were involved in arresting and detaining thousands of protesters at Ministry of Intelligence or Revolutionary Guards facilities to obtain confessions from individuals while disregarding their due process rights, such as the right to legal representation, the right to confront witnesses, and refraining from self-incrimination[[3]](#footnote-3). One example is on September 20, law enforcement forces in Iran hid a girl named (N.Sh) after taking part in protests. She was missing for 10 days until the authorities informed her family of her death[[4]](#footnote-4).
4. **Social control**: Some non-state actors use short-term enforced disappearances to instill fear within populations to control them, as evidenced by the Houthi group's use of temporary abductions in Yemen to intimidate and further tighten their control on civilians under their jurisdiction. According to official reports obtained by Maat in this context, The Houthi group was involved in hiding about 665 people between July 1, 2021, and July 31, 2022[[5]](#footnote-5).
5. **What are the legal frameworks and practices that might lead to “short-term enforced disappearance” and what might prevent it?**

Maat believes that the legal frameworks and practices that may lead to short-term enforced disappearance all involve ignoring due legal procedures, the most important of which are:

1. **Lack of legal safeguards**: presence of ineffective legal structures creates a favorable atmosphere for the occurrence of enforced disappearance. In the absence of laws that criminalize any type of forced disappearances, temporary arbitrary arrests, and detentions or provide appropriate solutions for those affected by these violations, it is more probable that law enforcement authorities will resort to enforced disappearance practices.
2. **Security legislation and emergency laws**: Security and emergency laws allow law enforcement to use enforced disappearance for reasons such as maintaining national security, public order, and combating terrorism. Laws and legislation grant law enforcement broad powers, including detainment without judicial oversight, leading to due process violations, arbitrary detention, and short-term enforced disappearances.
3. **Secret detention facilities:** secret detention facilities in which persons are held incommunicado facilitate enforced disappearance practices, allowing law enforcement authorities to detain and forcibly conceal persons without oversight or accountability by independent jurisdictions.
4. **Lack of independence of the judiciary**: Politicization of the judiciary, lack of necessary independence, subordination to the influence of the executive authority can contribute to the perpetuation of short-term enforced disappearances. Without impartial and strong judicial institutions, there is no accountability for human rights violations committed by law enforcement agencies in places of deprivation of liberty, which encourages law enforcement authorities to commit enforced disappearances without censorship.
5. **Spread of a culture of impunity**: absence of political will to investigate and prosecute cases of short-term enforced disappearance, and the spread of a culture of impunity for these crimes, would encourage short- and long-term enforced disappearances.

On the other hand, Maat believes that there are legal frameworks and practices that can help prevent short-term enforced disappearance, the most important of which are:

* **Strong legal protection against enforced disappearance:** This protection is achieved through the existence of laws that explicitly define enforced disappearance as a crime, and provide for effective remedies for victims. Legal frameworks in all countries around the world must include clear and comprehensive legislation prohibiting all forms of enforced disappearance, including short-term enforced disappearance, the individual rights of persons are protected such as the right to liberty, the right to protection from all forms of arrest, detention and enforced disappearance, and the right to fair, speedy and public trials before an independent jury.
* **Judicial oversight and independence**: Judicial institutions' autonomy plays a crucial role in lessening all acts of human rights violations, including violations related to short-term enforced disappearance. Regular oversight of prisons and detention centers by unbiased legal authorities can decrease occurrences of enforced disappearances, arrests, and illegal detentions.
* **Accountability and oversight mechanisms**: The establishment of accountability and oversight mechanisms within law enforcement agencies may contribute to reducing arbitrary arrests and detentions and enforced disappearances, given the role these mechanisms can play in investigating allegations of enforced disappearance and holding perpetrators accountable for their actions.
* **Ratification of international human rights instruments**: States' ratification of international human rights instruments, in particular those prohibiting enforced disappearance, such as the International Convention for the Protection of All Persons from Enforced Disappearance, encourages the provision of a national legal framework for the prevention and criminalization of enforced disappearance and the adoption of policies to reduce this practice.
* **Support for civil society organizations**: civil society organizations play a vital role in monitoring human rights violations and in providing support to victims and their families. A strong and active civil society would therefore assist in monitoring and reporting enforced disappearances and would also encourage quick action against them.
1. **What are the main procedural questions that may arise for domestic authorities, the Committee and the Working Group when dealing with cases of short-term enforced disappearances?**

Maat believes that there are a set of main procedural questions that may be raised by the local authorities, the Committee, and the working group when dealing with cases of enforced short-term disappearances. We can summarize these questions as follows:

**Question 1: How are short-term enforced disappearances identified and verified?**

The local authorities, the Committee, and the Working Group may have a procedural question that raises the issue of identifying and verifying short-term enforced disappearances, as they may face great difficulties in identifying and verifying enforced disappearances due to their confidential nature.

Maat believes that the local authorities, the committee, and the working group can overcome these difficulties by working to collect information, testimonies, and evidence, conducting interviews with the families of the victims, witnesses, and relevant stakeholders, as well as reviewing official records and documents, to verify the extent to which members of the security services were involved in these incidents or not.

**Question 2: What judicial measures should be taken against those responsible for the short-term enforced disappearance?**

A procedural question may be raised with local authorities, the Committee, and the Working Group regarding the case concerning judicial proceedings against those responsible for short-term enforced disappearances and the quality of the appropriate legal mechanisms for holding perpetrators accountable.

Maat believes that local authorities must prosecute those involved in short-term enforced disappearances by the provisions of the Criminal Code and ensure that investigations are impartial, effective, and in conformity with international human rights standards.

**Question 3: How can cooperation between local authorities and international bodies related to enforced disappearance be strengthened to address cases of enforced disappearance?**

A procedural question may be raised for local authorities, the Committee and the Working Group regarding actions to be taken to strengthen cooperation between domestic authorities and international bodies relating to enforced disappearance and the treatment of its cases.

Maat believes that local authorities must provide regular updates and reports to international bodies related to enforced disappearances, including the Committee and the Working Group, respond to queries from these bodies, and implement their recommendations to prevent and respond effectively to enforced disappearances.

**Question 4: How can victims of enforced disappearance and witnesses be protected?**

A procedural question may be raised with local authorities, the Commission, and the Working Group regarding the procedures to be followed for the protection of victims and witnesses reporting enforced disappearances.

According to Maat, collaborative efforts between the local authorities, committee, and working group should be made to establish initiatives that promote the safeguarding of victims and witnesses. It is also crucial to eliminate any form of retaliation that might harm the victims, witnesses, and their families.

**Question 5: What preventive measures can be taken to prevent enforced disappearances?**

Domestic authorities, the Committee, and the Working Group may have a procedural question regarding the preventive measures that should be taken to prevent short-term enforced disappearances.

According to Maat, preventive measures should be established and carried out by local authorities in collaboration with the committee and working group to avert short-term enforced disappearances. These measures may comprise of educational programs, public awareness campaigns, and human rights training for law enforcement officials, designed to increase awareness about this issue.

1. Iraq: Rights experts call for new laws to end ‘waves of disappearance’, UN News, 4 April 2023, link: <https://bit.ly/3CclnGW> [↑](#footnote-ref-1)
2. Iraq: UN details ordeal of abducted protesters, welcomes Government’s promise to investigate and compensate, ohchr, 26 May 2020, link: <https://bit.ly/43ElJBY> [↑](#footnote-ref-2)
3. Enforced Disappearance, Iran Regime’s Tool To Spread Terror, Iran focus, JANUARY 9, 2023, link: <https://bit.ly/3quj537> [↑](#footnote-ref-3)
4. 2022 Country Reports on Human Rights Practices: Iran, US Department of State, April 2022, link: <https://bit.ly/3Ccpgvw> [↑](#footnote-ref-4)
5. The tenth periodic report on the work of the national mechanism for monitoring and investigating allegations of human rights violations, August 29, 2022, link: <https://bit.ly/3NdmX1m> [↑](#footnote-ref-5)