

International action

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Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ
United Kingdom

**"DISAPPEARANCES" AND POLITICAL KILLINGS:
HUMAN RIGHTS CRISIS OF THE 1990s**

A MANUAL FOR ACTION

@Chapter 14

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Pre-Publication Version

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This is a pre-publication version of Chapter 14 of the Amnesty International report *"Disappearances" and Political Killings: Human Rights Crisis of the 1990s - A Manual for Action*.

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1. The need for international action

A governmental program of "disappearances" and extrajudicial executions is very hard to combat. Even in isolated incidents where the extent of official backing for the actions of individual officers may be in doubt, the authorities often will be loath to take corrective measures for fear of weakening the prestige and power of the security forces. When "disappearances" and extrajudicial executions become systematic, the official resistance to stopping them will be all the stronger.

Locally, victims' relatives, human rights organizations and many others have tried to combat "disappearances" and extrajudicial executions. Their achievements are often remarkable, but they normally have immense difficulties in trying to reverse an official policy and obtain a full accounting for the abuses committed. Often the perpetrators strike back, neutralizing their efforts and even putting their lives in danger. International action is needed to increase the pressure for human rights observance on the governments concerned and to support national activists at risk.

The UN and regional inter-governmental organizations are vehicles for international action, but their efforts are seldom enough. Other governments must put pressure directly on the governments concerned to uphold human rights and stop "disappearances" and extrajudicial executions. Individuals and non-governmental organizations also have important roles to play in this international effort.

2. Action by other governments

Governments should use all available channels to intercede with the governments of countries where "disappearances" and extrajudicial executions have been reported.
- From Amnesty International's 14-Point Programs on "Disappearances" and Extrajudicial Executions

The eradication of "disappearances" and political killings should be a part of every country's foreign policy. In its bilateral relations with other countries and in intergovernmental bodies, each government should work to stop "disappearances" and extrajudicial executions and to protect those at risk.

The need to act against human rights violations internationally is a part of the duty of governments to strive to ensure universal respect for human rights. This need has been recognized as an obligation in international human rights instruments. Thus the UN Principles on Extra-Legal, Arbitrary and Summary Executions states, "Governments shall make every effort to prevent extra-legal, arbitrary and summary executions through measures such as diplomatic intercession ... and public denunciation" (principle 8),

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while according to the UN Declaration on Disappearances (Article 2 (2)), "States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance."

Each government should instruct its diplomatic representatives to:

- seek information on any suspected "disappearances" or extrajudicial executions, as well as on any laws or practices which facilitate these abuses;
- meet local human rights organizations to gather information on alleged "disappearances" and extrajudicial executions;
- express concern with the host government over allegations of "disappearances" and extrajudicial executions;
- intercede with the host government to locate "disappeared" prisoners and ensure their safety, to protect people at risk of "disappearance" or extrajudicial execution, and to protect members of human rights organizations threatened because of their work;
- in urgent cases, offer shelter to people at risk of "disappearance" or extrajudicial execution;
- send observers to trials of people allegedly responsible for "disappearances" and extrajudicial executions, as a sign of their own government's wish to see those responsible brought to justice;
- report back on these matters so that the home government can take the situation of human rights into account in formulating policy.

Action by other governments for the eradication of "disappearances" and political killings also includes:

- public criticism of the practice of governments which engage in "disappearances" and extrajudicial executions or abet political killings by opposition groups;
- efforts through the UN Commission on Human Rights and other inter-governmental bodies to act multilaterally against "disappearances" and extrajudicial executions;
- technical assistance contributing to the eradication of "disappearances" and extrajudicial executions, including expert assistance in investigative techniques;
- action to ensure that transfers to other countries of equipment, know-how, training or doctrine for military, security or police use do not facilitate or encourage "disappearances" or extrajudicial executions;
- pressure on opposition groups with which they have ties to stop deliberate and arbitrary killings.

3. Non-refoulement

No one should be forcibly returned to a country where he or she risks becoming a victim of "disappearance" or extrajudicial execution.

- From Amnesty International's 14-Point Programs for the Prevention of

"Disappearances" and Extrajudicial Executions

People at risk of "disappearance" or extrajudicial execution by their own government sometimes find themselves in other countries. They may have fled, or they may have been abroad when political changes made it unsafe for them to return. These people should not be deported, extradited, or otherwise sent back against their will to the country where they are at risk.

The duty of governments not to return a person forcibly to a country where he or she risks becoming a victim of "disappearance" or extrajudicial execution is established in the UN Declaration on Disappearances (Article 8) and the UN Principles on Extra-Legal, Arbitrary and Summary Executions (principle 5). This duty follows from the prohibition on *refoulement*ⁱ which, as set out in Article 33 of the 1951 Convention relating to the Status of Refugees, prohibits the forcible return of any person to a country where that person's life may be threatened "on account of his race, religion, nationality, membership of a particular social group or political opinion".ⁱⁱ Over 110 states are parties to this Convention. Moreover, it is widely recognized that the *non-refoulement* obligation is a principle of customary international law binding on all states. While the 1951 Convention allows some exceptions to the principle as set forth in its Article 33, the prohibitions on forcible return in the Declaration on Disappearances and the Principles on Extra-Legal, Arbitrary and Summary Executions are absolute, emphasizing the grave nature of these human rights violations and the need to take all possible steps to prevent them. Similarly, Article 3 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention against Torture") prohibits the forcible return of a person to another country where there are substantial grounds for believing that he or she would be in danger of being tortured.

Many people at risk of "disappearance" or extrajudicial execution face difficulties in trying to flee to safety in another country. The Universal Declaration of Human Rights proclaims the right of everyone to seek and enjoy **asylum** from persecution,ⁱⁱⁱ but countries where people may wish to seek asylum often obstruct this right through their application of immigration control policies which are often indiscriminate and obstruct the entry of people in need of protection. In many cases people fleeing political killings have been stopped at borders and not admitted because their documents or visas are not in order.

To ensure that people at risk of "disappearance" or extrajudicial execution are not sent back, governments must allow people claiming asylum an opportunity for a full and fair examination of their claim.

- Asylum-seekers often find themselves in a strange environment, apprehensive of the authorities and unable to speak the language of the country. The government should ensure that they receive the assistance of lawyers and that competent interpreters are provided. They should also receive assistance from specialized non-governmental agencies.
- The officials who make decisions on asylum claims should be able to rely on the services of a documentation office that draws on information about human rights in the country of origin from the widest possible range of sources, in particular information from independent and non-governmental sources. Amnesty International has urged the establishment of such offices.
- If an application for asylum is turned down, asylum-seekers must be allowed to appeal against the decision and to remain in the country pending the outcome of the appeal.

Non-governmental organizations, lawyers and human rights activists in countries where people seek asylum can play a crucial role in helping to protect people from being sent back to countries where their

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lives are at risk. By providing information to support an individual case, they can help to overcome any prejudicial tendency by the authorities to disbelieve the person's story. Their involvement can help to ensure that the asylum-seeker's legal rights are fully respected and that the applicant understands the procedures involved.

Besides providing such support in individual cases, human rights organizations and others often engage in public education to counter attitudes hostile to asylum-seekers. By making known the risk of repression in the countries which people flee, they can overcome common misconceptions about asylum-seekers, such as that they are motivated solely by the desire for material gain.

Occasionally an asylum-seeker is alleged to have been responsible for human rights violations in the country which he or she has fled. If such a person is at risk of "disappearance" or extrajudicial execution if returned home, the person should not be returned, but granting protection to him or her should not preclude an investigation into the alleged crimes.

4. Action by human rights organizations and organizations of relatives of the "disappeared"

"In our efforts to build a culture of human rights, we must not forget the importance of human rights workers and non-governmental organizations, nor the courage shown by many who risk their lives and security for the rights of others."

- UN Secretary-General Boutros Boutros-Ghali^{iv}

"...over the past decade, non-governmental human rights organizations have played a vital role in protecting and promoting the human rights of the most vulnerable sectors of society, in difficult and sometimes tragic circumstances. Quite a number of human rights activists were forced to go into exile, and some even lost their lives in the course of their work. Human rights organizations have been among the few organizations to investigate human rights violations and to protect their victims."

- From the second report of the Director of the UN human rights monitoring mission in El Salvador (paragraph 9), referring to the work of human rights organizations in El Salvador

"The World Conference on Human Rights recognizes the important role of non-governmental organizations in the promotion of all human rights and in humanitarian activities at national, regional and international levels. The World Conference on Human Rights appreciates their contribution to increasing public awareness of human rights issues, to the conduct of education, training and research in this field, and to the promotion and protection of all human rights and fundamental freedoms. While recognizing that the primary responsibility for standard-setting lies with States, the Conference also appreciates the contribution of non-governmental organizations to this process. In this respect, the World Conference on Human Rights emphasizes the importance of continued dialogue and cooperation between Governments and non-governmental organizations. Non-governmental organizations and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights, and the protection of the national law. ... Non-governmental organizations should be free to carry out their human rights activities, without interference, within the framework of national law and the Universal Declaration of Human Rights."

- World Conference on Human Rights, Vienna Declaration and Programme of Action, part I, paragraph 38.^v

Much of this report has concerned the measures which governments must take to fulfil their obligations to

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eradicate "disappearances" and extrajudicial executions and redress the wrongs caused. To say that they must do so is one thing, but experience shows that it will not happen automatically. Much of the credit for improvements belongs not to the authorities but to the pressures created by unofficial organizations working, often under great difficulties and at great risk, in defense of human rights.

Some of these are organizations of relatives of the "disappeared". Such organizations often appear spontaneously. Mothers, wives and others, visiting police stations, army barracks and government offices to inquire about their missing relatives, meet others there whose plight is the same; they exchange experiences, discuss their problems and then - sometimes - decide to act together. In Sri Lanka and the Philippines, in Chad, in Chile, Argentina, Guatemala and other countries, relatives' organizations have searched for the "disappeared" and acted to confront the practice of "disappearance".^{vi}

Other organizations also are active on human rights matters at the local and national levels. Such organizations vary in their mandates and methods of action. Some have their base in the structures of established religious organizations; others are affiliated with trade unions, political parties or professional associations while still others are independent. Some are primarily legally oriented, working through the judicial system; others rely mainly on publicity and other forms of action.

Relatives' organizations and national human rights groups work in various ways, including the following:

- making inquiries and pressing the authorities to disclose information about the whereabouts and fate of the "disappeared";
- pursuing individual cases in the courts through such means as *habeas corpus* petitions, criminal denunciations and civil suits;
- providing material and moral support to victims' relatives, and to victims of "disappearance" who reappear;
- investigating individual cases and documenting the extent of the practice;
- informing the public of their rights under national law and international human rights standards.^{vii}

Complementing the work of national organizations, other organizations tackle "disappearances" and political killings internationally.

Amnesty International is an independent movement for human rights, with an active worldwide membership comprising more than one million members, subscribers and supporters in over 150 countries and territories. It has been working to stop "disappearances" and political killings since the 1970s.

Amnesty International's activities include:

- sending fact-finding missions to make on-the-spot investigations and meet government officials;^{viii}
- publishing reports of "disappearances" and political killings with recommendations on the measures needed to end them;
- through its worldwide Urgent Action network, sending urgent appeals to the authorities on behalf of

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individuals who have "disappeared" or are at risk of extrajudicial execution;

- assigning individual cases of "disappeared" people or of victims of extrajudicial execution to one or more Amnesty International groups for long-term work;
- conducting international campaigns against "disappearances" and political killings in different countries to mobilize public opinion and put pressure on government authorities and on opposition groups responsible for political killings;^{ix}
- working for stronger international action and improved international instruments at the UN and regional inter-governmental organizations.

The **International Committee of the Red Cross (ICRC)** is an independent institution which works to protect and assist military and civilian victims in international and internal armed conflicts and internal disturbances and tensions. It is a part of the International Red Cross and Red Crescent Movement, whose other components are national Red Cross and Red Crescent Societies and the world federation of national societies known as the League of Red Cross and Red Crescent Societies. Its work is based on the Geneva Conventions of 1949 and the two Additional Protocols of 1977, which confer on the ICRC the right to take action and to make proposals to states. The Movement's Statutes recognize that the ICRC has a right of humanitarian initiative in situations not covered by the Conventions or the Additional Protocols.

From its headquarters in Geneva and through the delegations which it sets up in conflict areas around the world, the ICRC works against "disappearances" and political killings in several ways:

- visiting places of detention, interviewing without witnesses the people held there and registering their names (see Chapter 9, section 17);
- operating a Central Tracing Agency which traces people who have "disappeared" or whose families have no news of them. At the request of family members, the ICRC may prepare lists of "disappeared" people for government authorities, asking them to clarify the fate of the victims. If ICRC delegates identify a detainee as a person who has been reported to have "disappeared", the family is informed;
- reminding the parties to armed conflicts of their obligation to respect international humanitarian law, under which "disappearances" and political killings are prohibited;
- in cooperation with national Red Cross and Red Crescent Societies, promoting understanding of the laws of war by helping to train national instructors whose task is to make the principles of these laws known to members of the armed forces;
- providing material assistance to families of the "disappeared".^x

Other international non-governmental organizations also work against "disappearances" and political killings.^{xi} International trade unions, international religious organizations and organizations of journalists, for example, have taken up cases of members of their constituent organizations who have been victims of "disappearance" or extrajudicial execution, and have acted in other ways against these abuses.

The contribution of non-governmental organizations to the international protection of human rights is increasingly being recognized in the UN. Thus the Special Rapporteur on extrajudicial, summary or arbitrary executions in his 1993 report (paragraph 690) thanked the non-governmental organizations

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which sent him information, and wrote that "without their efforts, very little could have been done". The Working Group on Disappearances has for many years cited the work of non-governmental organizations and organizations of relatives of the "disappeared" in its reports. The UN General Assembly has repeatedly recognized the constructive role that non-governmental organizations can play in relation to national institutions for the protection and promotion of human rights.^{xii}

Non-governmental organizations make vital contributions to the protection of human rights worldwide. By working on behalf of victims and their relatives, these organizations help to protect individuals against abuses of state power. By investigating and denouncing human rights violations, they keep watch for human rights, helping to maintain a state of vigilance which needs to be permanent, as there will always be a risk that the powers wielded by state officials will be abused. It is through working for human rights and making human rights known that the universal and effective recognition and observance of human rights can be secured, as called for in the Universal Declaration of Human Rights.^{xiii}

5. Action by individual citizens

The organizations working for human rights around the world are made up of individuals. Often these organizations have come into existence because of the needs and wishes of victims, victims' relatives, and others concerned about human rights. Out of the desperate experience of relatives of the "disappeared" and the killed, out of the fearsome and anguishing knowledge of these atrocities has come action.

Where "disappearances" and political killings are perpetrated, relatives and others have courageously pursued the truth, sought to find the "disappeared" and ensure their well-being, and joined others to take action in the face of the atrocities.

Outside the country, people horrified by the atrocities have joined others to make the facts more widely known, and have sought means of action from their country which would help to find the "disappeared" and to stop "disappearances" and political killings. Through their efforts, human rights become a matter of public international concern, transcending national boundaries.

The efforts of people confronting "disappearances" and political killings lead to exposure of these human rights violations. Out of exposure comes awareness: awareness of internationally agreed human rights standards; awareness of human rights violations, of their human cost, of the means by which they are perpetrated; awareness of the proper remedies and how they can be invoked. Exposure provokes horror, indignation and outrage, leading to a determination that "disappearances" and political killings must be stopped. Out of this determination comes action.

This report contains many possibilities for action, but there is no single formula for success. Different measures will be tried in different places, with varying results. Out of these efforts will come more ideas for action. The experience of confronting "disappearances" and political killings must be one of resourcefulness in the face of adversity.

The doctrine of human rights and the institutional machinery for human rights observance are designed to protect individuals from the egregious misuse of the awesome power of the state. The minimum standards of humane behaviour discussed in Chapter 13 apply everywhere and at all times, to states and armed opposition groups alike. Individuals must defend these rights and these standards, for themselves and for others, for their dearest relatives and for strangers in other countries, for the sake of the common humanity of all. It is through these means that "disappearances" and political killings can be defeated.

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Notes

iThe word "refoulement" comes from the French word *refouler*, to turn back. Refoulement means returning a person forcibly to his or her country.

iiThe text of the 1951 Convention is reproduced in *Human Rights; A Compilation of International Instruments*, cited in Chapter 8.

iiiArticle 14, paragraph 1 of the Universal Declaration of Human Rights states: "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

iv*Report on the Work of the Organization... September 1992*, paragraph 104 (cited in Chapter 12.)

vCited in Chapter 10.

viFor example, the work of the Chilean Association of Relatives of the Detained-Disappeared (AFDD), formed in 1974, is described in *Disappearances; A Workbook*, pages 113-115. This organization, the Argentinean Mothers of the Plaza de Mayo and the Guatemalan Mutual Support Group for the Reappearance of our Sons, Fathers, Husbands and Brothers are discussed in Jennifer G. Schirmer, "Those Who Die for Life Cannot Be Called Dead: Women and Human Rights Protest in Latin America", *Harvard Human Rights Yearbook*, Harvard Law School, Cambridge, Massachusetts, USA, Volume 1 (1988), pages 41-76. The history of the Argentinean Mothers of the Plaza de Mayo has been described in several books; see, for example, Alfredo Martin, *Les Mères "folles" de la Place de Mai; Maternité, contre-institution et raison d'état*, Reanudot, Paris, 1989.

The Federación Latinoamericana de Asociaciones de Familiares de Detenidos-Desaparecidos (FEDEFAM), Latin American Federation of Associations of Families of the "Disappeared", brings together national organizations of relatives of the "disappeared" in Latin America and presses for the resolution of cases of "disappearance" at the regional and international levels. For further information contact FEDEFAM, Apartado Postal 2444, Carmelitas 1010-A, Caracas, Venezuela.

viiFor a general analysis of the work of human rights organizations, see Alejandro Artucio, "Los Derechos Humanos y las Organizaciones No Gubernamentales (ONG)", *Revista de IELSUR*, Instituto de Estudios Legales y Sociales del Uruguay, No. 2 (July 1988), pages 13-22.

The organization *SOS-Torture* is a clearing-house for information on "disappearances", political killings and torture, serving a worldwide network of non-governmental human rights organizations. Organizations wishing to join the network can contact SOS-Torture, Boîte Postale 119, 1211 Geneva, Switzerland.

Directories of human rights organizations in different regions of the world have been published as special issues of the *Human Rights Internet Reporter*. For further information contact Human Rights Internet, c/o Human Rights Centre, University of Ottawa, 57 Louis Pasteur, Ottawa, Ontario K1N 6N5, Canada.

viiiOne of Amnesty International's earliest missions concerned with "disappearances" was a visit to Argentina in November 1976, eight months after the military coup which marked the beginning of "disappearances" as a systematic practice. Despite official surveillance and a stream of hostile and misleading reports in the national press, the Amnesty International team was able to receive personal testimonies from the relatives of more than 100 missing people who came to see them. The published report described the process by which an alleged 2,000 to 5,000 people had joined the "ghostly army" of the "disappeared" since the coup and gave details of 343 cases recorded by Amnesty International. (Amnesty International, *Report of an Amnesty International Mission to Argentina; 6-15 November 1976*, Amnesty International, London 1977. For an account of the Amnesty International mission, see Guest, *op. cit.*, pages 76-86)

ixIn 1993, for example, Amnesty International members in over 30 countries campaigned intensively for an end to political killings and "disappearances" in Chad. They wrote letters calling on the Chadian authorities to fulfil their publicly stated promises to establish safeguards for the protection of human rights, urged the governments of other countries to intercede with the Chadian authorities to the same end, and worked to publicize the little-known human rights tragedy in Chad, where over 600 people have been victims of extrajudicial executions since the present government came to power in December 1990. In recent years Amnesty International has campaigned on other countries where "disappearances" and/or political killings were major concerns, including Sudan in 1989-90, Brazil and Sri Lanka in 1990, Myanmar in 1990-91, Morocco in 1991, Peru in 1991-92, the Philippines in 1992 and Uganda in 1992-93.

xOn the ICRC's work against "disappearances", see "The Fight Against Forced Disappearances" (pages 24-25), in "ICRC Protection and Assistance Activities in Situations not Covered by International Humanitarian Law", *International Review of the Red Cross*, No. 262 (January-February 1988), pages 9-37.

Publications describing the work of the ICRC may be obtained from national Red Cross and Red Crescent Societies or from the ICRC Publications and Documentation Service, 19 avenue de la Paix, 1202 Geneva, Switzerland.

xiAmong international organizations working against "disappearances" and extrajudicial executions and on related problems are the International Commission of Jurists, whose headquarters are in Geneva; the Fédération Internationale des Droits de l'Homme, International Federation of Human Rights, whose headquarters are in Paris; Human Rights Watch, based in the USA and comprising five regional Watch Committees (Africa Watch, Americas Watch, Asia Watch, Helsinki Watch and Middle East Watch); the Lawyers Committee for Human Rights, located in New York; Physicians

for Human Rights, located in Boston; the Comisión Andina de Juristas, Andean Commission of Jurists, located in Lima.

xiiThe most recent such statement is in resolution 46/124 on national institutions for the protection and promotion of human rights, adopted by the General Assembly without a vote on 17 December 1991.

XiiiArtucio, *op. cit.*, pages 15-16.