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**AMNESTY INTERNATIONAL'S 14-POINT PROGRAM FOR THE PREVENTION OF "DISAPPEARANCES":
SOURCES IN INTERNATIONAL INSTRUMENTS**

Amnesty International has developed a 14-Point Program for the Prevention of "Disappearances" to call attention to the official steps needed to end "disappearances" worldwide. The program consists of a series of detailed measures which should be taken by all governments. The program can serve as a test of governmental behaviour: the extent to which those measures are implemented is an indication of a government's commitment to end "disappearances" at home and abroad.

Most of the measures in this program have already been agreed by the world's governments in United Nations (UN) resolutions and other international instruments. Others are measures which Amnesty International from its experience believes would be effective.

According to the Declaration on the Protection of All Persons from Enforced Disappearance, adopted by the UN General Assembly in 1992, "Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights..." (Article 1). Article 2 of the same declaration states that such act of disappearance "constitutes a violation of the rules of international law guaranteeing, *inter alia*, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life."

The fact that the declaration was adopted by the General Assembly without a vote is an indication of especially strong endorsement, showing that no government wished to go on record as opposing it.

In the attached document, the measures in Amnesty International's 14-Point Program are shown alongside the main passages from international instruments which contain the same or similar provisions.

**Abbreviations of Principal UN Instruments
relevant to the Prevention of "Disappearances"**

___ Abbreviation	Full Title	Adoption
Body of Principles	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment	Adopted by the UN General Assembly without a vote on 9 December 1988 in resolution 43/173
Disappear-ance Declaration	Declaration on the Protection of All Persons from Enforced Disappearance	Adopted by the UN General Assembly without a vote on 18 December 1992 in resolution 47/133
Victims Declaration	Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power	Adopted by the UN General Assembly on 29 November 1985 in resolution 40/34
ICCPR	International Covenant on Civil and Political Rights	Adopted by the UN General Assembly on 16 December 1966 in resolution 2200 A (XXI) and entered into force on 23 March 1976
Standard Minimum Rules	Standard Minimum Rules for the Treatment of Prisoners	Adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955 and approved by the Economic and Social Council by its resolutions 663 (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

AMNESTY INTERNATIONAL'S 14-POINT PROGRAM FOR THE PREVENTION OF "DISAPPEARANCES"**SOURCES IN INTERNATIONAL INSTRUMENTS****14-Point Program****Sources**

1. Official condemnation	
The highest authorities of every country should demonstrate their total opposition to "disappearances". They should make clear to all members of the police, military and other security forces that "disappearances" will not be tolerated under any circumstances.	"No State shall practise, permit or tolerate enforced disappearances." (Disappearance Declaration, Article 2 (1))
2. Chain-of-command control	
Those in charge of the security forces should maintain strict chain-of-command control to ensure that officers under their command do not commit "disappearances".	"Each State shall ... ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms." (Disappearance Declaration, Article 12 (2))
Officials with chain-of-command responsibility who order or tolerate "disappearances" by those under their command should be held criminally responsible for these acts.	

3. Information on detention and release	
Accurate information about the arrest of any person and about his or her place of detention, including transfers and releases, should be made available promptly to relatives, lawyers and the courts.	"Accurate information on the detention of such persons (deprived of liberty) and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned." (Disappearance Declaration, Article 10 (2)) ¹
Prisoners should be released in a way that allows reliable verification of their release and ensures their safety.	"All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured." (Disappearance Declaration, Article 11)
4. Mechanism for locating and protecting prisoners	
Governments should at all times ensure that effective judicial remedies are available which enable relatives and lawyers to find out immediately where a prisoner is held and under what authority, to ensure his or her safety, and to obtain the release of anyone arbitrarily detained.	"The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances ..." (Disappearance Declaration, Article 9 (1))
5. No secret detention	
Governments should ensure that prisoners are held only in publicly recognized places of detention.	"Any person deprived of liberty shall be held in an officially recognized place of detention ..." (Disappearance Declaration, Article 10 (1))
Up-to-date registers of all prisoners should be maintained in every place of detention and centrally.	"An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. ..." (Disappearance Declaration, Article 10 (3)) ²
The information in these registers should be made available to relatives, lawyers, judges, official bodies trying to trace people who have been detained, and others with a legitimate interest.	"... The information contained in these registers shall be made available to (family members, counsel or other persons have a legitimate interest in the information), to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State is a party, seeking to trace the whereabouts of a detained person." (Disappearance Declaration, Article 10, (3)) ³

¹ See also Body of Principles, Principle 16 (1); Standard Minimum Rules, rule 92.

² See also Body of Principles, Principle 12 (1); Standard Minimum Rules, rule 7 (1).

³ See also Body of Principles, Principle 12 (2).

No one should be secretly detained.	
6. Authorization of arrest and detention	
Arrest and detention should be carried out only by officials who are authorized by law to do so.	"Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose." (Body of Principles, Principle 2)
Officials carrying out an arrest should identify themselves to the person arrested and, on demand, to others witnessing the event.	
Governments should establish rules setting forth which officials are authorized to order an arrest or detention. Any deviation from established procedures which contributes to a "disappearance" should be punished by appropriate sanctions.	<p>"Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention." (Disappearance Declaration, Article 12 (1))</p> <p>"States should prohibit by law any act contrary to the rights and duties contained in these principles (and) make any such act subject to appropriate sanctions ..." (Body of Principles, Principle 7 (1))</p>
7. Access to prisoners	
All prisoners should be brought before a judicial authority without delay after being taken into custody.	"Any person deprived of liberty shall ... in conformity with national law, be brought before a judicial authority promptly after detention." (Disappearance Declaration, Article 10 (1)) ⁴
Relatives, lawyers and doctors should have prompt and regular access to them.	<p>"The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order." (Body of Principles, Principle 18 (3))</p> <p>"A detained or imprisoned person shall have the right to be visited by, and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful</p>

⁴ See also ICCPR, Article 9 (3); Body of Principles, Principles 11 (1) and 37.

	regulations." (Body of Principles, Principle 18) ⁵
There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.	"In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment." (Body of Principles, Principle 29 (1)) ⁶

⁵ See also Standard Minimum Rules, rules 37 and 92 on family visits; ICCPR, Article 14 (3)(b) and Standard Minimum Rules, rule 93 on communications with lawyers and Standard Minimum Rules, rules 24 and 91 on visits by doctors.

⁶ See also Standard Minimum Rules, rule 55.

8. Prohibition in law	
Governments should ensure that the commission of a "disappearance" is a criminal offence, punishable by sanctions commensurate with the gravity of the practice.	"All acts of enforced disappearance shall be offences under the criminal law punishable by appropriate penalties which shall take into account their extreme seriousness." (Disappearance Declaration, Article 4 (1))
The prohibition of "disappearances" and the essential safeguards for their prevention must not be suspended under any circumstances, including states of war or other public emergency.	<p>"No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances." (Disappearance Declaration, Article 7)</p> <p>"The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7." (Disappearance Declaration, Article 9 (1))</p>

8. Individual responsibility	
<p>The prohibition of "disappearances" should be reflected in the training of all officials involved in the arrest and custody of prisoners and in the instructions issued to them. They should be instructed that they have the right and duty to refuse to obey any order to participate in a "disappearance". An order from a superior officer or a public authority must never be invoked as a justification for taking part in a "disappearance".</p>	<p>"1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.</p> <p>2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.</p> <p>3. Training of law enforcement officials shall emphasize the above provisions." (Disappearance Declaration, Article 6)</p>

<p>10. Investigation</p>	
<p>Governments should ensure that all complaints and reports of "disappearances" are investigated promptly, impartially and effectively by a body which is independent of those allegedly responsible and has the necessary powers and resources to carry out the investigation.</p>	<p>"Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation." (Disappearance Declaration, Article 13 (1))</p> <p>"Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. ..." (Body of Principles, Principle 34)</p>
<p>The methods and findings of the investigation should be made public.</p>	<p>"The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation." (Disappearance Declaration, Article 13 (4))</p> <p>"... The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation." (Body of Principles, Principle 34)</p>
<p>Officials suspected of responsibility for "disappearances" should be suspended from active duty during the investigation.</p>	<p>"Persons alleged to have committed any (acts of enforced disappearance) shall be suspended from any official duties during the investigation ..." (Disappearance Declaration, Article 16 (1))</p>
<p>Relatives of the victim should have access to information relevant to the investigation and should be entitled to present evidence.</p>	
<p>Complainants, witnesses, lawyers and others involved in the investigation should be protected from intimidation and reprisals.</p>	<p>"Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal." (Disappearance Declaration, Article 13 (3))</p> <p>"Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or the investigation procedure is appropriately punished." (Disappearance Declaration, Article 13 (5))</p>

<p>The investigation should not be curtailed until the fate of the victim is officially clarified.</p>	<p>"An investigation ... should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified." (Disappearance Declaration, Article 13, (6))</p>
<p>II. Prosecution</p>	
<p>Governments should ensure that those responsible for "disappearances" are brought to justice.</p>	<p>"Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial unless he has been extradited to another State wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring all persons presumed responsible for an act of enforced disappearance, found to be within their jurisdiction or under their control, to justice." (Disappearance Declaration, Article 14.)</p>
<p>This principle should apply wherever such people happen to be, wherever the crime was committed, whatever the nationality of the perpetrators or victims and no matter how much time has elapsed since the commission of the crime.</p>	
<p>Trials should be in the civilian courts.</p>	<p>"[Persons alleged to have perpetrated or to be responsible for an act of enforced disappearance] shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts." (Disappearance Declaration, Article 16 (2))</p>
<p>The perpetrators should not benefit from any legal measures exempting them from criminal prosecution or conviction.</p>	<p>"No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations." (Disappearance Declaration, Article 16 (3))</p> <p>"Persons who have, or are alleged to have, [perpetrated or to have been responsible for an act of enforced disappearance] shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction." (Disappearance Declaration, Article 18 (1))</p>

<p>12. Compensation and rehabilitation</p>	
<p>Victims of "disappearance" and their dependants should be entitled to obtain fair and adequate redress from the state, including financial compensation. Victims who reappear should be provided with appropriate medical care or rehabilitation.</p>	<p>"The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation." (Disappearance Declaration, Article 10)</p> <p>"Anyone who has been victim of unlawful arrest or detention shall have an enforceable right to compensation." (ICCPR, Article 9 (5))</p> <p>"Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims." (Victims Declaration, paragraph 10)</p>
<p>13. Ratification of human rights treaties and implementation of international standards</p>	
<p>All governments should ratify international treaties containing safeguards and remedies against "disappearances", including the International Covenant on Civil and Political Rights and its first Optional Protocol which provides for individual complaints.</p>	<p>"The General Assembly ... [a]gain urges all States that have not yet done so to become parties to ... the International Covenant on Civil and Political Rights and to consider acceding to the Optional Protocols to the International Covenant on Civil and Political Rights ..." (UN General Assembly resolution 46/113, adopted on 17 December 1991 without a vote)</p>
<p>Governments should ensure full implementation of the relevant provisions of these and other international instruments, including the UN Declaration on the Protection of All Persons from Enforced Disappearance, and comply with the recommendations of intergovernmental organizations concerning these abuses.</p>	<p>"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." (Disappearance Declaration, Article 2 (2))</p>
<p>14. International responsibility</p>	
<p>Governments should use all available channels to intercede with the governments of countries where "disappearances" have been reported. They should ensure that transfers of equipment, know-how and training for military, security or police use do not facilitate "disappearances".</p>	<p>"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." (Disappearance Declaration, Article 2 (2))</p>
<p>No one should be forcibly returned to a country where he or she risks being made to "disappear".</p>	<p>"No State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance." (Disappearance Declaration, Article 8 (1))</p>

