



**CALL FOR INPUTS ON ENFORCED  
DISAPPEARANCES IN THE CONTEXT OF  
TRANSNATIONAL REPRESSION**

**January 2026**

## Abstract

This report examines enforced disappearances committed in the context of **transnational repression**, with a particular focus on practices involving cross-border abductions, renditions, and secret detention carried out through formal and informal security cooperation. It analyzes how such acts occur, the profiles of individuals most at risk, and the legal and institutional frameworks that enable or fail to prevent these violations. The report situates transnational enforced disappearances within existing international and regional human rights law, highlighting the continuing nature of the violation and the resulting obligations of States to prevent, investigate, and remedy such conduct, including when it occurs outside their territorial boundaries.

The analysis assesses the effectiveness and limitations of existing mechanisms for **investigation, prosecution, mutual legal assistance, and oversight**, including UN treaty bodies and special procedures, the European Court of Human Rights, and mutual legal assistance frameworks. It identifies significant accountability gaps arising from the absence of mandatory extraterritorial investigations, weak oversight of intelligence services, misuse of national security and state secrecy doctrines, and the lack of dedicated international prosecutorial mechanisms. Particular attention is given to the barriers faced by victims and their relatives in accessing truth, justice, and reparation in transnational cases.

The report further outlines the structural deficiencies in security and intelligence cooperation frameworks, especially the lack of binding human-rights safeguards, judicial oversight, and transparency in bilateral and multilateral agreements. It concludes by setting out concrete measures that States should adopt to ensure **effective protection, truth, justice, and reparation**, including legislative reforms, independent investigations, strengthened international cooperation grounded in human rights, and victim-centered remedies. By documenting patterns of abuse and identifying systemic failures, the report aims to contribute to international efforts to combat impunity and to strengthen accountability for enforced disappearances in the context of transnational repression.

## Who We Are as **Stichting De Facto Justice**

*Stichting De Facto Justice, an Amsterdam-based non-profit organization, is dedicated to promoting justice and equality for all in our society by its voluntary board and volunteers from former Turkish lawyers and current Dutch Legal Advisors living in the Netherlands. Stichting De Facto Justice has been established with the vision of a fair and impartial legal system that serves everyone but mainly active in the injustices taking place in Türkiye. We strive to address systemic injustices and empower individuals by providing them with access to justice and the necessary resources to exercise their rights.*

# I. UN Submission on Enforced Disappearances & Transnational Repression

## 1. The Most Severe Form of Transnational Repression

Transnational repression refers to acts by a State or its proxies that reach beyond its borders to silence, a, punish, or eliminate dissent, including attempts to control or deter civic engagement, criticism, or opposition abroad. Such actions encompass a range of abuses -from digital harassment and surveillance to targeted violence, abductions, and enforced disappearances - and are conducted to advance political interests by coercing individuals living outside the State's territorial jurisdiction.

Of all these severe manifestations, Enforced disappearances is considered the most severe form of transnational repression. These practices directly undermine the international legal order, the rule of law, and human rights obligations, particularly those concerning liberty, security, and the protection against enforced disappearance.

## 2. Enforced Disappearances in the Context of Türkiye's Transnational Repression

In the case of Türkiye post-2016, enforced disappearances have been employed as part of a broader strategy of transnational repression targeting individuals associated — or perceived to be associated — with the **Hizmet (Gülen) Movement**. This pattern aligns with the type of covert operations the UN has recognized as part of transnational repression, where states undertake actions outside their sovereign territory to punish dissent and restrict civic space.

### Mechanisms observed include:

**a. Extraterritorial abductions (renditions)** Individuals have been forcibly taken from third countries through operations involving state security actors, sometimes with complicity or acquiescence from local authorities. These abductions typically bypass standard judicial and extradition procedures entirely.

### Below the full list<sup>1</sup> of enforced disappearances carried out by Turkish Government

No	Name(s)	Date	Country
1	Ahmet T. Kuru	10 January 2024	Malaysia
2	Mustafa Tan; Mustafa Bircan	27 December 2023	Algeria

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<sup>1</sup> <https://justicesquare.org/wp-content/uploads/2024/07/15-Temmuz-Sonrasi-Turkiyede-Yasanan-ADAM-KACIRMA-ve-KAYBETME-VAKALARI-2.pdf>

<b>No</b>	<b>Name(s)</b>	<b>Date</b>	<b>Country</b>
3	Emsal Koç	2 July 2023	Tajikistan
4	Mehmet Cintosun	14 April 2023	Iraq
5	Koray Vural	16 September 2023	Tajikistan
6	Selahattin Gülen	3 May 2021	Kenya
7	Orhan İnandı	1 June 2021	Kyrgyzstan
8	Osman Karaca	19 October 2019	Mexico
9	Arif Komiş	30 August 2019	Malaysia
10	İbrahim Eker	January 2019	Azerbaijan
11	Mehmet Gelen	30 December 2018	Azerbaijan
12	Salih Zeki Yiğit	12 July 2018	Ukraine
13	Veysel Akçay	27 July 2018	Mongolia
14	7 persons	6 September 2018	Moldova
15	6 persons	31 March 2018	Kosovo
16	3 persons	15 March 2018	Gabon
17	Faik Semih Başoğlu	19 February 2018	Azerbaijan
18	Taci Şentürk	8 June 2017	Azerbaijan
19	Erdoğan Taylan	9 February 2018	Azerbaijan
20	Ayhan Seferoğlu	19 February 2018	Azerbaijan
21	İsa Özdemir	12 July 2018	Azerbaijan
22	Yusuf İnan	15 July 2018	Ukraine
23	Aslan Çelik	19 January 2018	Iraq
24	Mustafa Kenel	16 December 2017	Indonesia
25	Memduh Çıkmaz	27 November 2017	Sudan
26	Hakan İslamoğlu	19 October 2017	Indonesia
27	Kaçmaz Family	27 September 2017	Pakistan
28	Zabıt Kişi	16 September 2017	Kazakhstan
29	Enver Kılıç	16 September 2017	Kazakhstan
30	17 persons	5 June 2017	Saudi Arabia
31	Mustafa Emre Çabuk	27 May 2017	Georgia
32	Muhammet Furkan Sökmen	24 May 2017	Myanmar
33	Turgay Karaman; İsmet Özçelik; İhsan Aslan	2–4 May 2017	Malaysia
34	Mustafa Ceyhan	20 April 2017	Azerbaijan
35	Tamer Tıbık	13 October 2016	Malaysia
36	Alettin Duman	13 October 2016	Malaysia
37	Abdullah Büyük	10 August 2016	Bulgaria

No	Name(s)	Date	Country
38	Ayten Öztürk	13 March 2018	Lebanon

**b. Secret detention and denial of legal safeguards** Once apprehended, victims are often held incommunicado, denied access to lawyers, their families, or judicial oversight, and excluded from official detention records — core elements of enforced disappearance as defined under international human rights norms.

**c. Subsequent criminalization** Only after prolonged secret detention are some individuals formally charged under broadly drawn counterterrorism or related statutes, a practice that can serve to retroactively “legalize” prior unlawful actions without remedying the initial disappearance.

Such practices are deeply opaque, making verification difficult — a challenge highlighted by UN human rights mechanisms in documenting transnational repression and enforced disappearance cases globally.

### 3. Risk Profiles - Individuals Most Vulnerable

Within this repression framework, the following groups are disproportionately at risk:

**a. Hizmet volunteers with public roles** Teachers, school administrators, civil society organizers, charity coordinators, and dialogue facilitators affiliated with Hizmet-inspired institutions face a heightened risk of transnational repression due to their public visibility, community-oriented actions, and perceived symbolic significance. Although their activities are predominantly **lawful, non-violent, and civilian in nature**, Turkish authorities frequently characterize such individuals as ideologically influential and therefore politically threatening.

Individuals in these roles are often targeted not for any concrete criminal conduct, but because they serve as **community reference figures** within diaspora networks, contribute to **educational, humanitarian, or intercultural initiatives** that extend beyond Türkiye’s borders, and are seen as sustaining the **organizational continuity and social legitimacy** of the Hizmet Movement abroad.

Their public engagement increases traceability and exposure, making them easier to identify, monitor, and target through intelligence-led operations. In the context of transnational repression, such figures are often selected as **exemplary targets**, with the aim of dismantling community structures and more importantly deterring participation in civil society activities.

Moreover, teachers and educators associated with Hizmet institutions have been systematically portrayed in official narratives as agents of ideological dissemination, despite the absence of evidence of involvement in violence or incitement. This stigmatization lowers the threshold for extraordinary measures, including surveillance, arbitrary detention, and enforced disappearance, particularly in jurisdictions where host State protections are weak or compromised.

As a result, Hizmet volunteers with public or leadership roles experience a disproportionate risk of abduction, secret detention, and forced transfer, functioning as a tool not only of individual punishment but of collective repression and silencing beyond Türkiye's territorial borders.

**b. Diaspora activists and community leaders** Individuals active in organizing networks, public events, or community support for Hizmet affiliates abroad face increased exposure due to their visibility.

**c. People with unstable migration status** Those who lack secure legal status — including asylum seekers, temporary residents, or individuals with revoked passports — are particularly vulnerable to covert removal and disappearance, as they have reduced access to protection mechanisms. Sadly, a Four-Hizmet-Volunteers kidnapping incident occurred in 2024 in Kenya<sup>2</sup>. Briefly, 4 Gülenists having a status of Refugee in Kenya were unlawfully kidnapped and returned to Türkiye.

**d. Family members and associates** Family members of individuals linked to the movement are sometimes targeted indirectly, through threats, surveillance, or pressure to coerce cooperation or silence critical voices abroad.

These risk patterns mirror broader UN concerns that transnational repression not only targets political dissenters but also undermines civic space and inhibits diaspora communities' engagement in human rights advocacy.

## 4. Human Rights Impacts

The enforced disappearance of Hizmet Movement volunteers and sympathizers living abroad carries profound human rights implications. Firstly, it violates the right to liberty and security of person<sup>3</sup>. Secret detention and denial of information amount to a denial of due process and access to justice, in violation of Articles 2(3), 9 and 14 of the ICCPR, as well as Articles 5, 6 and 13 of the European Convention on Human Rights. Severe psychological trauma and loss

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<sup>2</sup> <https://www.bbc.com/news/articles/cvgwg5n0y0lo>

<sup>3</sup> Article 9, International Covenant on Civil and Political Rights (ICCPR)

of family contact also occur during these period and finally but not lastly the trust in international bodies and protection systems vanish.

These effects are consistent with UN analyses showing that transnational repression, particularly when enforced disappearances are involved, weakens civic space, deters human rights advocacy, and undermines international protection obligations.

## **II. Which national, regional, and international laws, practices, or agreements contribute to or prevent enforced disappearances in the context of transnational repression?**

### **I. Legal and institutional frameworks that contribute to enforced disappearances**

#### **1. National Laws And Practices Of Türkiye**

**a. Broad counterterrorism legislation** Türkiye's Anti-Terror Law (Law No. 3713)<sup>4</sup> and related provisions of the Turkish Penal Code define terrorism and membership in terrorist organizations in overly broad and vague terms. This allows criminalization based on alleged association rather than conduct, retroactive justification of unlawful abductions, and the framing of enforced disappearances as “security operations.”

These laws are frequently invoked after victims are secretly transferred to Türkiye, contributing to a pattern of *ex post facto* legalization.

**b. Practices of Intelligence and Security Agencies (MIT)** The operational practices of Turkish intelligence services, including extraterritorial renditions, secret detention, and denial of custody, function in practice outside effective judicial oversight. The absence of transparent accountability mechanisms facilitates enforced disappearances both domestically and abroad.

**c. Passport Cancellation and Citizenship Revocation** Administrative measures such as mass passport cancellations and nationality revocations leave targeted individuals without effective diplomatic protection unable to regularize their status abroad, thereby increasing vulnerability to abduction and forced transfer.

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<sup>4</sup> <https://legislationline.org/taxonomy/term/14263>

## **2. Bilateral agreements and informal cooperation**

**a. Security and Intelligence Cooperation Agreements** Türkiye has entered into bilateral security, police, or intelligence cooperation agreements with numerous third States<sup>5,6</sup>. While often framed as counterterrorism cooperation, these agreements lack explicit human rights safeguards, are frequently non-transparent, and can be used to bypass formal extradition procedures. Some other examples can be seen as demonstrated by documented cases in Malaysia, Kenya, Kyrgyzstan, and Azerbaijan.

**b. Informal practices and executive cooperation** In many documented cases, transfers occurred without any visible legal basis, suggesting informal executive agreements, intelligence-to-intelligence cooperation, or tacit acquiescence by host States. Such practices undermine international extradition law and directly contribute to enforced disappearances.

## **3. Misuse of International Legal Mechanisms**

**a. Abuse of INTERPOL systems** Red Notices and diffusion requests have been used against Hizmet-linked individuals, despite the political nature of the allegations. Even when not leading directly to arrest, such notices restrict freedom of movement, expose individuals to detention or removal, and increase the risk of disappearance.

Additionally, Turkish authorities inform EUROPOL about “Stolen and Lost Travel Documents (SLTD)”<sup>7</sup> and this is triggered when a dissident tries to enter a country by using a valid Turkish Passport, an alert position is taken by the target countries’ security officers and immediately put those persons under detention owing to the said notification. Even though countries themselves check authenticity of passports, it creates uncertainty and fear among Turkish dissidents traveling abroad.

**b. Politicized Extradition and Deportation Procedures** In some host States, domestic courts or administrative authorities have failed to assess risks of torture or enforced disappearance upon return, properly apply the principle of non-refoulement.

This creates legal pathways that indirectly facilitate enforced disappearances.

## **II. Legal frameworks that prevent or should prevent enforced disappearances**

### **1. International Human Rights Law**

**a. International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)** The Convention prohibits enforced disappearance in all

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<sup>5</sup> Kosovo – March 2018 (MIT–Kosovo intelligence cooperation)

<sup>6</sup> Moldova – September 2018 (Security cooperation agreement)

<sup>7</sup> <https://www.interpol.int/How-we-work/Border-management/SLTD-database-travel-and-identity-documents>



circumstances, affirms its absolute and non-derogable nature, and extends State responsibility to acts committed outside national territory when States exercise effective control or act through cooperation.

Even where States are not parties, many obligations reflect customary international law.

**b. International Covenant on Civil and Political Rights (ICCPR)** Articles 2, 6, 7, 9, and 16 collectively prohibit arbitrary detention, torture and ill-treatment, denial of legal personality, all core elements of enforced disappearance, including in extraterritorial contexts.

**c. Convention against Torture (CAT)** CAT's **absolute prohibition of refoulement** where there is a risk of torture applies directly to cases involving secret detention and enforced disappearance.

## 2. Regional Legal Frameworks (EUROPE)

### a. European Convention on Human Rights (ECHR)

Under the jurisprudence of the European Court of Human Rights, enforced disappearance violates:

- Article 2 (right to life),
- Article 3 (prohibition of torture),
- Article 5 (right to liberty),
- Article 13 (right to an effective remedy).

The Court has also recognized **extraterritorial State responsibility**, particularly where a State exercises control through agents or cooperation with foreign authorities.

**b. ECtHR case law on renditions and secret detention** The Court has consistently held that cooperation with foreign intelligence services does not absolve States of responsibility, secret detention and denial of information constitute aggravated violations. These standards are directly applicable to transnational enforced disappearance cases.

**Kurt v. Turkey**<sup>8</sup> [GC], no. 24276/94, judgment of 25 May 1998, §§ 98–134. *The Court recognised enforced disappearance as a continuing violation and held that the State's failure to account for the applicant's whereabouts, combined with denial and lack of investigation, constituted aggravated violations of Articles 2, 3 and 5.*

**Timurtaş v. Turkey**<sup>9</sup>, no. 23531/94, judgment of 13 June 2000, §§ 80–98. *The Court held that secret detention followed by denial of custody amounts to a particularly*

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<sup>8</sup> [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-58198%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-58198%22]})

<sup>9</sup> [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-58901%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58901%22]})

*grave violation of the Convention, emphasizing the authorities' duty to provide a credible explanation.*

**Aksoy v. Turkey**<sup>10</sup>, no. 21987/93, judgment of 18 December 1996, §§ 52–84. *The Court ruled that incommunicado detention without judicial safeguards constitutes a serious violation of Article 5 and creates conditions conducive to torture and enforced disappearance.*

### 3. International Refugee and Asylum Law

#### a. 1951 Refugee Convention & non-refoulement<sup>11</sup>

The principle of non-refoulement prohibits States from returning individuals to a country where they face persecution, torture, or enforced disappearance. Failure to respect this obligation directly contributes to transnational repression.

### 4. Preventive Practices and Safeguards

The UN Working Group on Enforced or Involuntary Disappearances (WGEID)<sup>12</sup> and the Committee on Enforced Disappearances (CED)<sup>13</sup> play a crucial preventive role through urgent actions, country engagement, and normative guidance on transnational cases.

To sum up, effective prevention requires mainly the followings:

- strict judicial oversight of extradition and deportation,
- mandatory human rights risk assessments,
- transparency in security cooperation agreements,
- independent oversight of intelligence services,
- and access to remedies for victims and families.

Conversely, robust application of international human rights, refugee, and regional legal frameworks provides a clear legal basis to prevent such acts and ensure accountability.

## II. Key gaps and structural deficiencies

**1. Lack of mandatory extraterritorial investigations** Most States do not investigate enforced disappearances committed abroad. On the contrary, they deny jurisdiction over intelligence operations, or classify relevant information as state secrets. This results in **de facto impunity**.

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<sup>10</sup> [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-58003%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-58003%22]})

<sup>11</sup> <https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>

<sup>12</sup> <https://www.ohchr.org/en/special-procedures/wg-disappearances>

<sup>13</sup> <https://www.ohchr.org/en/treaty-bodies/ced>

**2. Impunity for intelligence services** There is almost minimal or none independent oversight of intelligence agencies. Some diplomatic passport holding officials have legal immunities which allow them to operate crossborders and run/hide local judicial or enforcement bodies take a look at the situation.

**3. Absence of Effective International Criminal Jurisdiction** Enforced disappearance is not within the jurisdiction of the ICC *as a standalone crime* unless part of crimes against humanity and thus rarely prosecuted before international criminal tribunals. There is **no dedicated international investigative or prosecutorial body** for transnational enforced disappearances.

**4. Weak protection for victims and families** Families often face lack of standing in cross-border proceedings. No access to information held by foreign authorities and absence of reparations or truth-seeking mechanisms let victims suffer severely from injustice.

### **III. Mechanisms that are lacking and Solution Advises**

The followings are the steps that must be taken unanimously by states without any condition. Deterrence plays a key role over perpetrators on not to act against laws. Therefore, an **international obligation to open criminal investigations** for transnational enforced disappearances must immediately be provided.

A **mandatory cooperation framework** between States for disappearance cases must be set.

Clear **extraterritorial accountability standards** for intelligence agencies must be set and enforced when such things occurred.

A centralized **international registry or reporting mechanism** specifically tracking transnational enforced disappearances must be established.

Automatic **suspension of security cooperation** where enforced disappearance risks are identified must take place.

## **III. Which mechanisms exist—or are lacking—to ensure investigation, prosecution, and mutual legal assistance in cases of transnational enforced disappearances?**

### **I. EXISTING MECHANISMS**

### **a) UN Working Group on Enforced or Involuntary Disappearances (WGEID)<sup>14</sup>**

The said institution constitutes one of the principal international mechanisms addressing cases of enforced disappearance, including those with transnational elements. It is mandated to receive and examine individual cases, transmit **urgent actions and allegations** to concerned States, and request information and clarification regarding the **fate and whereabouts of disappeared persons**. Through these procedures, the Working Group plays a crucial role in documenting patterns of enforced disappearance, maintaining international visibility of ongoing cases, and giving victims and their families a channel to engage with the UN human rights system.

**However**, the effectiveness of WGEID is structurally limited. It has **no authority to compel States to initiate criminal investigations or prosecutions**, nor does it possess enforcement or sanctioning powers. Its work depends entirely on the **cooperation and good faith of States**, which significantly constrains its impact in contexts where enforced disappearances are linked to security policies, intelligence operations, or transnational repression and where States systematically deny responsibility or refuse to provide meaningful information.

### **b) Committee on Enforced Disappearances (CED)<sup>15</sup>**

The **Committee on Enforced Disappearances (CED)** functions as a key treaty-based monitoring body under the International Convention for the Protection of All Persons from Enforced Disappearance and, where its competence has been recognized, it may examine individual communications and initiate **urgent action procedures** in cases where a person is at risk of enforced disappearance. Through its jurisprudence, general comments, and concluding observations, the Committee provides authoritative interpretations of States' obligations, including the scope of **extraterritorial responsibility** where State agents act or exercise effective control outside national territory. This interpretative role is particularly significant in situations involving cross-border abductions, renditions, or cooperation with foreign security services.

**Nevertheless**, the Committee's practical impact remains constrained by important structural limitations. Its effectiveness depends on whether States are parties to the Convention and whether they have formally recognized the Committee's competence to receive individual complaints and urgent action requests. Moreover, the CED has no direct investigative or prosecutorial mandate, and must rely on States to implement its recommendations, which often limits accountability in cases involving national security claims or transnational repression.

Within the European human rights system, the European Court of Human Rights (ECtHR) constitutes the most authoritative regional mechanism for addressing enforced disappearances, including those arising from extraterritorial operations such as renditions and secret detention. Through its binding judgments, the Court has consistently recognized enforced disappearance

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<sup>14</sup> <https://www.ohchr.org/en/special-procedures/wg-disappearances>

<sup>15</sup> <https://www.ohchr.org/en/treaty-bodies/ced>

as a continuing violation, engaging multiple provisions of the European Convention on Human Rights, and has affirmed that States remain responsible for acts carried out beyond their territory where their agents exercise authority or control. The ECtHR further requires States to conduct effective, independent investigations, to acknowledge the harm suffered by victims and their families, and to provide appropriate remedies, including compensation and measures of non-repetition. At the same time, the Court's role is inherently reactive and subject to institutional limits. It can only adjudicate cases after violations have occurred, lacks the power to initiate criminal proceedings or to compel the prosecution of specific officials, and must rely on domestic authorities and political will for the execution of its judgments, which can significantly weaken accountability in politically sensitive cases involving national security or transnational repression.

### c) Mutual Legal Assistance Treaties (MLATs),

Mutual legal assistance mechanisms, primarily operating through **Mutual Legal Assistance Treaties (MLATs)**, are in principle intended to facilitate cross-border cooperation in criminal matters by enabling the exchange of evidence, the taking of witness testimony, and other forms of cooperation in criminal investigations and prosecutions. In theory, such mechanisms could play a role in addressing transnational enforced disappearances by allowing States to assist one another in clarifying responsibility and gathering proof across jurisdictions.

In practice, however, their usefulness in this context is **severely limited**. MLAT procedures are frequently obstructed by claims of national security, state secrecy, or confidentiality, which are commonly invoked in cases involving intelligence services or counterterrorism operations. They are also **fundamentally ineffective** where the requesting State itself is implicated in the alleged disappearance, as cooperation then depends on the good faith of the very authorities suspected of responsibility. Moreover, MLATs are not designed to address covert intelligence operations, informal security cooperation, or extraordinary renditions, and therefore fail to provide an adequate legal framework for investigating or remedying cases of enforced disappearance carried out in the context of transnational repression.

## II. INEFFECTIVE / LACKING MECHANISMS and PROBLEMS

A number of critical mechanisms necessary to ensure accountability for transnational enforced disappearances are either entirely lacking or functionally ineffective, creating a landscape of structural impunity.

**No Binding Obligations** Most notably, there is no mandatory obligation under international law requiring States to conduct extraterritorial criminal investigations into enforced disappearances committed outside their territory, even where credible allegations exist that their agents were directly involved or acted through foreign partners. Nor is there a binding duty to investigate **intelligence operations conducted jointly with, or facilitated by, third States**, allowing responsibility to be obscured through informal cooperation and outsourcing practices. This legal vacuum enables States to evade accountability by externalizing repressive acts beyond their borders.

**No Accountability of Intelligence Services** Accountability deficits are particularly acute in relation to intelligence services, which frequently operate outside ordinary criminal law frameworks. Domestic oversight mechanisms, where they exist, often lack independence, transparency, or effective jurisdiction over cross-border or clandestine operations, and are structurally ill-equipped to address abuses involving foreign counterparts. Claims of state secrecy or national security routinely obstruct judicial scrutiny, restrict access to evidence, and prevent victims, courts, and oversight bodies from establishing the truth or assigning responsibility.

**No Effective Prosecutorial Mechanisms** At the international level, effective prosecutorial mechanisms are largely absent. Enforced disappearance falls within the jurisdiction of the International Criminal Court (ICC) only when it forms part of a widespread or systematic attack amounting to crimes against humanity, leaving the vast majority of individual or isolated transnational cases outside its reach. There is no permanent international investigative or prosecutorial body with a mandate specifically tailored to address transnational enforced disappearances as such, resulting in fragmented and inconsistent responses.

**No Effective Way of Access to Justice** Victims and their families face compounded barriers to access to justice, particularly in cross-border contexts. They often lack legal standing in foreign jurisdictions, are denied access to information held by multiple States, and encounter insurmountable obstacles in navigating parallel legal systems. The absence of cross-border truth-seeking, reparations, or family participation mechanisms further entrenches their marginalization and prolongs uncertainty regarding the fate and whereabouts of disappeared persons.

Finally, **human rights safeguards within security and intelligence cooperation frameworks remain critically underdeveloped**. There is no binding international requirement to suspend or condition security cooperation where a real risk of enforced disappearance exists, nor an obligation to include **enforceable human-rights clauses** in bilateral or multilateral security agreements. Judicial oversight of **intelligence-based transfers, renditions, or informal handovers** is frequently absent, allowing such practices to operate in legal grey zones that facilitate serious human rights violations without effective remedies or accountability.

## **IV. Which measures should States adopt to ensure effective protection, truth, justice, and reparation for victims and their relatives?**

**States must adopt a comprehensive set of legal, institutional, and operational measures that address both prevention and accountability**

To ensure effective protection, truth, justice, and reparation for victims of enforced disappearances and their relatives -particularly in the context of **transnational repression**- States must adopt a comprehensive set of legal, institutional, and operational measures that address both prevention and accountability.

1. States should first **strengthen their legal frameworks** by fully incorporating the prohibition of enforced disappearance into domestic law as an autonomous criminal offence, in line with international standards, and by ensuring that this offence applies **extraterritorially** where State agents act abroad or in cooperation with foreign authorities. Domestic legislation should explicitly prohibit renditions, secret detention, and informal transfers, and should remove statutes of limitation and amnesty provisions for enforced disappearance, recognizing its continuing nature.
2. Effective protection further requires the establishment of **mandatory, prompt, and independent investigations** whenever there are reasonable grounds to believe that an enforced disappearance has occurred, regardless of where it took place. Investigative obligations must extend to intelligence and security services, with clear rules ensuring that claims of national security or state secrecy cannot be used to block judicial scrutiny. Specialized prosecutorial units with expertise in transnational crimes should be empowered to investigate command responsibility and international cooperation chains, including the role of foreign partners.
3. To guarantee **truth**, States should ensure victims and families have a legally enforceable **right to information** concerning the fate and whereabouts of disappeared persons. This includes access to detention records, flight logs, border data, and intelligence-related information, subject only to narrowly defined and judicially supervised restrictions. States should also support or establish truth-seeking mechanisms, including independent commissions or cross-border investigative bodies, capable of examining patterns of transnational enforced disappearances and preserving evidence.
4. In terms of **justice**, States must ensure effective access to courts for victims and relatives, including standing in domestic proceedings, legal aid, and protection against intimidation or retaliation. Universal jurisdiction or other forms of extraterritorial jurisdiction should be exercised where appropriate, particularly when suspects are present on the State's territory or when the territorial State is unwilling or unable to act. International and regional judicial decisions, including those of the ECtHR, must be implemented fully and in good faith, with concrete measures to identify and prosecute those responsible.
5. Comprehensive **reparation** schemes are essential and should go beyond financial compensation. States must provide restitution, rehabilitation, psychological and social support, official acknowledgment of responsibility, public apologies, and guarantees of non-repetition. Reparations should be victim-centered, inclusive of family members, and sensitive to the prolonged suffering caused by uncertainty and denial.
6. Finally, States must embed **robust human rights safeguards in all security, police, and intelligence cooperation**. This includes mandatory human rights risk assessments prior to cooperation, enforceable clauses allowing suspension of cooperation where enforced disappearance risks exist, judicial oversight of any transfer or handover of persons, and effective parliamentary and independent oversight of intelligence agencies. Only through such integrated measures can States meaningfully prevent enforced disappearances, dismantle transnational impunity, and ensure truth, justice, and reparation for victims and their families.