

# Detention, arrest, abduction and kidnapping of a defender

## “No news from a defender”

When we have no news of the whereabouts of a defender, the first challenge is to find out exactly what has happened to him/her, and it might take some time. Several things may have happened:

- The defender may not **want to, or may have forgotten to** get in contact with the organisation: he/she may have decided to go away for the weekend or on a visit without telling anyone (or may want to “disconnect”). He/she may have found themselves without a telephone or any other means of communication, or may not be bothered about checking in. They may not have wanted anyone to know what they are doing (sometimes successfully). They may (and this is the least frequent option) have forgotten or not realised the fact that their whereabouts might concern their colleagues.
- The defender may not have been able to get in contact with the organisation for **technical reasons**: this can happen when the defender is, unpredictably or unexpectedly, cut off from means of communication in a place that is too remote. This might happen during a trip when the defender happens unexpectedly to be in a place with no communication, when the road is blocked, or he/she has to take an alternative route, or where he/she has to make an improvised change of plan during, leading him/her to a place without communication. It may also be that the expected means of communication is damaged in some way (broken cell phone, no credit, dead battery, collapse of the local telephone network, etc.).
- The defender might be unable to check in due to **illness or hospitalisation** (e.g. due to a traffic accident, previously unsuspected illness, or a worsening of an existing illness)
- The defender may have been **detained, arrested, abducted or kidnapped**. All have in common the characteristic that the defender is deprived of his/her freedom of movement and could experience anything from polite pressure to a life threat<sup>1</sup>. In some

<sup>1</sup> In this chapter we will draw on some of the contents of the useful security manual by van Brabant (2000) (chapter 13)

cases the defender may be able to check in with the organisation, meaning that the organisation will have more information about the situation.

*Detention* means that organisation members are kept under the control of a group (of soldiers or militia, a local authority, etc). *Arrest* is the term used to describe detention by security forces (so that in principle law can be invoked). *Abduction* refers to the forcible capture and removal of a defender in an illegal way for political reasons. *Kidnapping* refers to forced capture and detention with the explicit purpose of obtaining concessions from the captive or others. In this chapter we will use preferably the term *detention* for the sake of simplicity.

In general we should say that in most cases not having news of the whereabouts of a defender usually falls into the first two categories (not wanting to/ forgetting to communicate, or not being able to for technical reasons). Let's see how to prevent and react in these cases.

### **Prevention tips for avoiding a "No News" situation regarding the whereabouts of a defender**

#### **The defender does not want to, or has forgotten to get in contact with the organisation.**

- ♦ Every member of the organisation and particularly those most at risk must be aware of the fact that others will be concerned if they do not give news of their whereabouts. If they wish to be out contact, they should notify colleagues of this, including details of when they will be back in regular contact. In the case of defenders at high risk, it may be inadvisable for them not to be in regular contact.
- ♦ It is important to establish checking in routines for staying in regular contact with the organisation (usually with one or two named people) This becomes essential as levels of risk rise for a defender (because they are travelling to a risky area, or have received threats, etc...)

#### **The defender is not able for technical reasons to make contact with the organisation.**

- ♦ Pre-agreed checking in times should be established, and communication problems should be anticipated for those times: for example, if a check-in time coincides with a trip, thought should be given as to how and when it may be possible to communicate (by cell or landline telephone, or other means) in order to be certain that it will be possible, and to ensure that damage, breakdowns, expiry of credit or battery failure will not prevent communication.
- ♦ Plan alternative means of communication (via third parties for example).

#### **The defender is no able to communicate because he/she is ill or in hospital.**

- ♦ Lists should be kept of telephone numbers and addresses of all hospitals and health centres in the visited area, and where possible details of how

to get updates in traffic accidents (bus companies, highways police, contacts along the route, etc...).

- ♦ Defenders should not undertake trips unless they are in good health.
- ♦ Use the safest possible means of travel (including buses or other means).
- ♦ Defenders should have up to date health and accident insurance.

### **Preventing detentions.**

It is not easy to anticipate preventing detention. The crucial aim is to reduce the reasons and the exposure that might cause or facilitate the detention of any member of the organisation.

- ♦ Ethical behaviour of individuals and organisation is crucial so as to reasonably exclude personal and organisational breaches of common law, Breaches of common law may of course be used as a pretext, but the organisation's lawyer will know what to do. Furthermore, the detained defender will know that steps are being taken and can recite them to themselves almost to the actual timeline and "remain calm" (psychological impact), knowing that outside action has started. There is no need to challenge the authorities or to provide an opportunity for them and expose oneself to more risk than what s/he is already undergoing.
- ♦ In cases where breaches of a law are used as a political action, a full risk assessment becomes necessary and a damage limitation strategy must be prepared, given the increased risk incurred by defenders.
- ♦ Legal detention can of course be a pretext. It might or not be upon a summons and/or a warrant and can happen any time, at the office/house or during a trip. The point would be to prevent an arrest when the defender is alone so as to reduce the consequences related to the detention itself. What is ultimately needed is a political action strategy aimed at deterring the authorities from arresting defenders; nonetheless, the tendency in many countries seems to be to judicialize defenders and imprison them for various reasons, including ones unconnected to their work.
- ♦ It is no easy to prevent abduction. Apart from carrying out a costly risk assessment when a threat of abduction is suspected, it is crucial to reduce exposure in areas where the threat may be carried out, ensure one is never alone, and weigh up any action that may facilitate an abduction.
- ♦ Abduction can be carried out by common criminals (whether as a pretext or not) or by legal actors and/or para-legal actors, and/or armed political groups etc. It can potentially happen anywhere, but most probably will happen when the opportunity is either created by potential aggressors, or handed to them by the defender and preferably with no witnesses around. Therefore, abduction is less probable at the office during working hours, at the house during daylight hours, etc.(see example of death threats against an organisation leader in chap. 1.7)

The difference between illegal procedures of a legal detention and aggression/abduction is so thin that we recommend that human rights defenders consider all items of both parts not as mutually exclusive rather as

mutually complementary. However, we consider it important to state the difference between the actual meaning of both detention and abduction for psychological and practical questions.

- ♦ The aggression/abduction prevention procedure should take into account the defender's day to day work in the usual area of defender's activities, free time etc., and definitely during field missions, whether planned by the organisation and/or by invitation. Be vigilant and double-check all invitations from unknown parties.

### **WE SUSPECT THAT A DEFENDER HAS BEEN DETAINED (OR ARRESTED, ABDUCTED OR KIDNAPPED)....**

When can we suspect that a defender has been taken against his/her will? Well, if we do not have direct news from the defender, we must suspect it when we reasonably disregard the first three options... Realistically, the procedure for reaction to a detention or a suspected detention follows the reaction procedure used when a person fails to report when s/he is supposed to.

So, when we have no news from a defender we must start searching, in order to disregard any of the three first options. It is difficult to be certain that we have excluded any of the first three options. For this reason it is important to set a time limit before considering the fourth option: 3 hours with no news, 6 hours, 12 hours.... Depending on the context, circumstances, level of risk, awareness of the defender of the need to report, etc. The shorter the time, the more risk of making mistakes if we issue an alert; the longer the time, the bigger the delay in taking necessary action. Not an easy decision to make!

**Warning:** a report may fail to be filed through an oversight, through the negligence of the person who should have done so, or through a lack of means of communication- these should all be anticipated when planning the reporting schedule for the mission.

**Remember:** We may react to a suspected detention or a confirmed one.

It is crucial that the reaction of those detained and of the organisation involved be harmonised, and attempt to achieve the same objectives. It is for this reason that all the members of the organisation should be well acquainted with reaction procedures.

### **DETENTION (arrest, abduction, kidnapping):**

A detention (arrest, abduction, kidnapping) may vary in length from a few hours to even years. Resolution will most often be achieved by setting the person free, or it may turn into kidnapping situation when a objective is sought beyond the mere detention, or in some serious cases –abduction- it may lead to injuries or death, or “disappearance”.

Detention should be dealt with from three points of view:

- from the point of view of the detainee(s)
- from the point of view of the organisation upon which the detained persons depend,

- from the point of view of the family and relatives of the detainee(s)

### **General objectives when dealing with detention:**

- ♦ reduce the likelihood of a detention occurring.
- ♦ be informed as quickly as possible of the chances of a detention.
- ♦ outline how to react in such a situation:
  - Immediate reaction
  - Medium-term reaction

In order to keep this manual as simple as possible we will cover detention (including arrests) and kidnapping separately.

### **Detention of a defender: immediate reaction**

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#### **Objectives and steps of immediate reaction to a detention:**

Establish an ad hoc working group to react to a detention.

- 1 ♦ Protect the life and freedom of members of the organisation.
  - 2 ♦ Locate geographically the detained persons, using a map, the trip plan, the last contacts made, call contacts and actors in the field, etc...
  - 3 ♦ Work out which armed actor has detained the person, why, and to what end.
    - Using the geographical location of the detained person(s), along with background knowledge (you may have to infer causes for the detention if you do not yet know them). It will thus be possible to arrive at a reasonable guess of who is detaining the person, or at least arrive at a short-list of possible suspects.
    - Contact authorities (if adequate and necessary and possible)
  - 4 ♦ Achieve the release of the defender from detention unharmed.
- As a general rule, it is important not to focus on getting an agreement rather on getting an actual "exit" or release, leaving negotiations until after the defender has been released.
  - Assess the armed body concerned (in collaboration with regional authorities where possible/necessary), either directly in the case of a security forces body, or by using intermediaries- the assistance of other bodies such as churches, local dignitaries or elders, the International Red Cross committee, etc... For this reason it is crucial to be able to rely on these contacts. This assessment will aim to ascertain the reason for the detention, and attempt to obtain the immediate release of the defender detained.
  - Consider alerting other human rights defenders and humanitarian organisations so that they are aware, and are able to take the necessary steps jointly for extra weight. Where abduction with probable injury to the defender is suspected (such as an abduction carried out by a "hit squad"), it is important to act as quickly as possible and to focus action as much as possible

sible on the obvious leaders (where relevant) of the group responsible for the abduction, or on the political bodies close to those responsible that are most likely to react to national and international pressure..

- Alert consulates if the detained person is from another country.

## **Detention of a defender: medium-term reaction**

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If a defender is detained, and we do not anticipate being able to secure their release in the short term, medium-term objectives and steps should be introduced without losing focus on short-term objectives.

### **Objectives and steps of a medium-term reaction to a detention.**

- 1 ♦ Retain focus on short-term reaction objectives.
- 2 ♦ In the case of an arrest, on top of identifying as quickly as possible who is holding the defender, try and obtain a transfer to legal custody or to a security service over which there is some influence. In this case, try and obtain adequate legal support as quickly as possible (ideally prepared in advance). The risk of ill-treatment and torture may thus be reduced.
- 3 ♦ If the defender continues to be detained, try and attend to their personal needs -safety, food, healthcare, contact with their family and the organisation, etc. from the beginning of and throughout the process (this must also be planned ahead – see below: measures aimed at the family and relatives).

## **Reactions by the detained persons**

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- ♦ Remember the steps and plans previously prepared in view of the possibility of such situations. It is important to know what the right sequence of steps is in the event of a detention or an arrest, in order to minimise uncertainty, use one's strength in a controlled way and plan simple resistance objectives.
- ♦ Remain calm. Defenders know the organisation has a reaction protocol and that steps are being taken; they can recite them to themselves almost to the actual timeline and stay calm.
- ♦ Everything said and done should be aimed at preserving the life and safety of detained persons.
- ♦ Make contact with the chief of the armed group, and instigate dialogue with him, using basic institutional arguments with the aim of obtaining the release of the detained persons and their return to where they came from, or to release to any other safe place (do not intend to negotiate a "settlement").
- ♦ If this is not permitted, seek permission to use any means available to alert the organisation on your position; do not attempt to call without permission if you are under guard, as this may cause more risks than doing nothing.
- ♦ If the detention is being carried out by security forces, use the legal arguments provided by the organisation for these cases.

- ♦ Stay calm and do not forget that the organisation is rapidly deploying all its security systems as time goes on.

### **Measures aimed at the family and relatives:**

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- Inform the family and relatives if the person is not going to be released soon. Establish and maintain trust.
- Develop a clear approach towards the family. Provide support and keep them informed (appoint a link person for the family).
- The family will want time and attention from the organisation. Expect fluctuating attitudes and initiatives from the family.
- In case of long-term arrest or imprisonment, it is important to plan support for the family of a detained defender.

### **Abduction and kidnapping of a defender<sup>2</sup>**

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#### **From the point of view of the organisation**

Managing a kidnap crisis is a changing process that can last from anywhere between a few hours and months or even years. Key issues are the mobilisation of a competent crisis management team; dealing with the family, the authorities and press; communications and negotiations with the captors.

#### **Communicating and negotiating with the captors**

Kidnapping, as understood here, is deliberate and for a purpose. The captors will usually establish contact to make clear their demands and conditions.

The crisis management team should retain control over the negotiations, but avoid making direct contact with captors; the purpose is to create a time lag to allow for internal and external consultation and decision-making. You can if necessary ask for proof of life and for proof of the identity of the captors, and encourage and demand good treatment of captives.

If kidnapping is a real risk, it is important to previously agree on certain rules and procedures in relation to ransom and requests from abductors, where possible in line with similar organisations, and publicise them.. In any case, earlier similar events will inform about the likely stages of a kidnapping.

#### **From the point of view of the abducted/kidnapped defender**

- The most dangerous moments, when the captors will be tenser, are during the abduction, when the abductee is moved hastily because the captors fear that the authorities are near, during a siege situation and during release.
- Your captors will want you to be quiet; you may be blindfolded, beaten and even drugged for that purpose. It does not make sense to cry or struggle to oppose these tactics: actually being quiet might help you to avoid them (unless you reasonably expect that, during an abduction, crying or yelling can get other people to help you).

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<sup>2</sup> For this subject we will draw extensively from van Brabant (2000)

- The place and conditions in which abductees are held can vary widely. You may be kept in the same place or moved several times; you may be alone or with other captives. It is common for abductees to develop some sort of relationship with their guards and find it difficult to adjust as guards change.
- Obey the orders of your captors without appearing servile; avoid surprising or alarming them.
- Try to maintain physical and mental health.
- If you are in a group you should try not to be separated, as being with at least one other person can be a source of support. It is important however to be prepared for separation and changes, and in general for uncertainties that each day might bring and which will need to be faced.
- Securing release is not your problem but that of your organisation. Never get directly involved in negotiations for your release. This will only complicate matters. If asked to talk on the radio, telephone or on video say only what you are asked or allowed to say and refuse to negotiate even if pushed to by your captors.

### **PREVENTION PROCEDURES: REDUCING RISKS OF DETENTION OR ABDUCTION DURING A TRIP**

Risks of detention or abduction are particularly high during a trip or mission because the defender is more exposed, has less contact with his/her usual surroundings, and those around him/her may delay reacting to a threat or attack. For this reason, we state the risks linked to a field mission include most of the threats /consequences related to the whole work of the defenders.

#### **For example:**

- check points ⇒ arrest ⇒ detention ⇒ ...
- Aggression ⇒ abduction ⇒ violence ⇒ ...
- Loss of information ⇒ impact on witness ⇒ impact on organisation ⇒ ...
- Transport ⇒ public / private ⇒ ...
- Leisure time on the field ⇒ lowering guard ⇒ security incidents ⇒ ...
- Communication ⇒ phone ⇒ face to face ⇒ ...

We would like to insist on the risk of detention / abduction during a field mission and recommend that the prevention protocol for field mission include at least:

- preparation for all missions, both in the field or to urban areas such as neighbourhoods, where relevant.
- do not travel alone.
- adequate information on the background of the area and actors to be visited (actor mapping, field force analysis see chap.1.1.)
- defenders should know entrance and exit routes for the places involved.
- every person involved in the mission must hold relevant valid identity documents.

- alert the organisational emergency contacts who are on standby during the whole field mission (from the moment it leaves until the moment it is back)
- prepare the mission in accordance with procedures: include the agenda and work to be carried out, and it should also form part of the organisational security manual.
- plan regular updates on the state of the mission (usually by telephone, at times previously agreed). It implies, if possible, to check whether the route and final destination zones have got telephone reception. If it is not possible to check or there is not reception, one might consider the possibility of resorting to trusted people living on the way to confirm that the team has been seen by.

It is important to decide how long the designated person should remain on standby waiting for a report call after having tried unsuccessfully to reach the team, before getting worried. Remember that it is easier to reconstruct an abduction within a time frame of a few hours than many hours.

- assess the security of the chosen means of transport (this might at times be the organisation vehicle and at times public transport so as to be surrounded by potential witnesses). In the case of public transport, assess whether to sit together or separately and pretend not to know each other. This might give the possibility for at least one member of the team to alert the organisation. To intervene might mean losing that chance.
- If trips are made in one's own vehicle, it should be in working order at all times (respect speed limit and traffic code). Do not pick up hitchhikers.
- where relevant, distribute appropriate information to the civilian, military and community authorities, as well as to those responsible for the mission (so that they take responsibility for the safety of the mission and do not simply say that they "did not know").
- present a prepared argument that explains the aims and mandate of the organisation, in a way that is as acceptable as possible to armed groups and security forces (it is better not to adapt the argument to the armed group faced, as it may be difficult to identify who they are and it would be easy to make a grave mistake).
- assess the best time to leave for the field (at times, because of hot weather, it may be preferable to leave at dawn regardless of security). In the event of an attack right after leaving for the field however, the organisational emergency contacts might not yet be operational; the first moments after an abduction are crucial in being able to keep track of the person.
- Do not travel after dark.
- Do not at any time obviously display valuable items (such as cameras or video cameras).
- Behave appropriately during the trip.
- Usually, get the organisation to obtain permission for the work from the community visited (and where possible to negotiate at least tolerance from armed groups).

## In the case of a field mission following a call from a third party, also:

- Be sure of the identity of the caller (cross-check with trusted organisations)
- Cross check details about events mentioned
  - assess whether it is important to actually go to the field or if it would not be safer for all if the information were to travel to the organisation (see information management: prevention and reaction protocol)
  - assess whether is necessary to go there and then, right after the call, especially if the calling person is unknown (information should at least be cross-checked first). Also, one ought to consider that the field mission is not going to prevent the events as they have already happened, hence the initial call. In general, the best advice is to avoid improvisation and changes in plans whilst visiting a risky area.

### Summary

We understand that detaining a person can be a legal procedure. When it goes beyond legality it can be considered as an unjustified deprivation of a person's freedom. Its duration may vary in length from a few hours to years...

Detention should be dealt with from three points of view:

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- from the point of view of the organisation upon which the detained persons depend,
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#### **General objectives when dealing with detention:**

- reduce the likelihood of a detention occurring.
- be informed as quickly as possible of the chances of a detention.
- outline how to react in such a situation: immediate reaction and medium term reaction.

Abduction is illegal and can happen any time, usually when the opportunity arises. It is one of various possible consequences of "aggression". Therefore, security measures will be similar to those regarding prevention of aggression (Ch. 1.5.): reduce physical exposure as much as possible...