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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Written statement* submitted by the Families of Victims of Involuntary
Disappearance (FIND), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[21 June 2006]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

Statement by the Families of Victims of Involuntary Disappearance (FIND) of the Philippines on the urgency of approving the draft international convention for the protection of all persons from enforced disappearance by the human rights council of the united nations at its first session (June 19-30, 2006)

On 30 May 2006, the House of Representatives of the Philippine Congress approved on third and final reading House Bill No. 4959, otherwise known as the “Anti-Enforced or Involuntary Disappearance Act of 2006”. The Families of Victims of Involuntary Disappearance (FIND) has been lobbying the Philippine Congress to enact an anti-disappearance law for more than a decade now. The proposed domestic law does not only seek to define and penalize enforced or involuntary disappearance, but also to institute preventive measures. It significantly echoes the draft International Convention for the Protection of All Persons from Enforced Disappearance by, among others:

- 1) defining **enforced disappearance** as a direct or indirect State-perpetrated deprivation of liberty that places the disappeared person outside the protection of the law, and that of **victim** as the disappeared person and any individual who has suffered harm as a direct result of an enforced disappearance;
- 2) proscribing enforced disappearance under all circumstances including state of war or threat of war, political instability or any public emergency;
- 3) recognizing the continuing character of enforced disappearance as long as the perpetrator continues to conceal the fate and whereabouts of the disappeared person during which period a statute of limitations does not apply;
- 4) holding to account the commanding officer or superior of the offender who despite his/her power, opportunity or authority fails to prevent or uncover the commission of enforced disappearance;
- 5) making an order or instruction from a public authority to commit enforced disappearance unlawful and cannot be invoked as a justifying circumstance;
- 6) mandating the State through its appropriate agencies to ensure the safety of all persons involved in the search, investigation and prosecution of enforced disappearance including the victims, their families, complainants, witnesses, representatives of human rights organizations, media and legal counsel;
- 7) guaranteeing access to information about a person deprived of liberty by his/her relatives, lawyers, judges, official bodies and by all persons who have legitimate interest in the information; and
- 8) imposing penal sanctions ranging from *arresto mayor* to *reclusion perpetua*, not death, even if the disappeared is eventually summarily executed.

The Philippine anti-disappearance bill and the draft Convention are complementary and mutually reinforcing. However, the noteworthy provisions of the bill including the giant leap the Philippine Congress made in repealing the death penalty law are obliterated by the series of disappearances and extrajudicial killings mercilessly perpetrated by alleged State agents. In the first two quarters of this year alone, 25 victims of enforced disappearance have been reported and documented by FIND. These bring the total number of reported victims of disappearance under President Gloria Macapagal Arroyo’s administration to 130. Of the 99 victims documented by FIND, 50 are still missing, 41 surfaced alive, and 8 found dead.

All *desaparecidos* and their families cry for justice. Yet not a single perpetrator has been punished, notwithstanding the 14 criminal cases pending before Philippine courts. The

commission of enforced disappearance remains unabated not only in the Philippines but in other countries as well. Thus, FIND holds to account the Philippine government and other governments where disappearances are being committed. We, families of the disappeared, urge governments to penalize enforced disappearance as a distinct crime separate from murder, arbitrary detention and/or kidnapping. We urgently appeal to the new Human Rights Council of the United Nations to approve with alacrity in its first session the draft International Convention for the Protection of All Persons from Enforced Disappearance. We strongly believe that such approval and the subsequent entry into force of the Convention will pave the way for justice for the disappeared and their families, put an end to impunity, and uphold human dignity.

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