



**International Convention for  
the Protection of All Persons  
from Enforced Disappearance**

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**Committee on Enforced Disappearances**

**First session**

**Summary record of the 6th meeting**

Held at the Palais des Nations, Geneva, on Thursday, 10 November 2011, at 3 p.m.

*Chairperson:* Mr. Decaux

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*The meeting was called to order at 3.05 p.m.*

### **Matters related to the methods of work of the Committee**

#### *Meeting with States parties and other States*

1. **The Chairperson** welcomed the representatives of States parties to the Convention, and representatives of other States, and said that he looked forward to hearing their views. It was important that as many signatory States as possible ratify the Convention. For those States that had ratified, he looked forward to receiving their initial reports by the end of 2012, if not before. In addition to ratification, States should consider acknowledging the competence of the Committee to receive and consider communications by making the declarations provided for under articles 31 and 32 of the Convention.
2. Given that the crime of enforced disappearance concerned all countries in the world, the ultimate objective was to achieve the universality of the Convention. In the meantime, a desirable goal would be for the number of States parties to increase threefold.
3. In addition to combating enforced disappearance, the preventive aspects of work under the Convention were also important. They included the establishment of an appropriate legislative framework and mechanisms for the prevention of human rights violations, and the provision of training for the judiciary.
4. The Committee members were independent legal experts, from all regions of the world, who intended to work with all stakeholders in a spirit of collegiality and cooperation, in order to foster constructive dialogue. He invited each Committee member, for the benefit of the representatives present, to outline their particular areas of interest of work.
5. **Mr. Al-Obaidi** said that his work in the Ministry of Human Rights in Iraq, in the area of enforced disappearances, had shown him how important it was to have appropriate legislation to combat and prevent that crime.
6. **Mr. Camara** said that the Committee would be relying on the active cooperation of States, and would hopefully receive a number of initial State party reports before the end of 2012. In the meantime, it was important that States parties should make enforced disappearance an offence under their criminal legislation and increase the judiciary's awareness of the Convention.
7. **Mr. Garcé García y Santos** said that cooperation between the Committee and States parties should focus on three areas: bringing national criminal legislation into line with the Convention; judicial cooperation for the purposes of finding disappeared persons and ensuring victims' right to truth and reparation; and the timely submission of high-quality State party reports. The overriding aim was to prevent the atrocious crime of enforced disappearance; to that end, it was important that States parties should consider making the declarations provided for under articles 31 and 32 of the Convention.
8. **Mr. Hazan** said that he looked forward to putting his experience as a lawyer seeking justice for victims of enforced disappearance in Argentina to good use, in helping States that had ratified the Convention to fully implement its provisions.
9. **Mr. Huhle** said that the Committee and States parties needed to work together to increase the number of ratifications of the Convention. He urged European States, in particular, to ratify the Convention. More important still was for States to make the declarations provided for under articles 31 and 32 of the Convention.
10. **Ms. Janina** said that her country, Albania, had experience of enforced disappearances as a result of armed conflict in the western Balkans. Indeed, there were still 14,000 people missing in that region. She encouraged States parties to continue to search

for missing persons, since the right of victims to know the truth was an important pillar of the Convention, and to use all possible opportunities to promote the Convention, with the aim of increasing the number of ratifications, in order to eradicate the crime of enforced disappearance.

11. **Mr. López Ortega** said that, as a judge and professor of criminal law, with a special interest in human rights protection, his commitment to the effective implementation of the Convention was not only intellectual in nature, but also moral and ethical. He looked forward to working in cooperation with States parties to combat and prevent enforced disappearance as effectively as possible.

12. **Mr. Mulembe**, after endorsing the important points made by his colleagues, said that he looked forward to the time when the international community took the crime of enforced disappearance as seriously as it deserved. Cooperation with States parties was required in order to work towards achieving the ultimate goal of universal ratification of the Convention. Ratification alone was not sufficient, however: States parties must also amend their criminal legislation accordingly.

13. **Mr. Yakushiji** said that his country, Japan, had also experienced enforced disappearances on its territory. Noting that there were only 30 States parties to the Convention, a small number for such an important issue, he encouraged more States to accede to the Convention and to recognize the Committee's competence to consider individual communications under article 31.

14. **The Chairperson** invited representatives of States parties to offer their comments.

15. **Mr. Rosales** (Argentina) said that his country had experienced crimes related to enforced disappearances in the period 1976–1983 and was therefore deeply committed to preventing such crimes, both in Argentina and around the world. Echoing the sentiments of cooperation expressed by Committee members, he stressed the importance of the Convention to Argentina, which had been involved in its development from the beginning. As the second country to ratify the Convention, Argentina had also launched a global campaign in partnership with France to encourage ratification of the Convention and membership of the “Group of Friends” of the Convention. The Convention contained provisions that went beyond those of other treaty bodies, giving the Committee a unique ability to monitor and prevent enforced disappearances. A number of measures had been taken by Argentina at the national level to implement the Convention, prevent enforced disappearances and ensure the right of the families of disappeared persons to know the truth about the circumstances of the disappearance.

16. **Ms. Merindol Ouoba** (Burkina Faso) said that Burkina Faso had ratified the Convention in 2009 and was working to bring its domestic legislation into conformity with the provisions of the Convention. She had confidence in the Committee's ability to adequately fulfil the role entrusted to it.

17. **Mr. Alhama Orenes** (Spain) said that human rights were the universal heritage of all and that the defence and promotion of human rights was a priority for his Government. His Government had supported the Working Group on Enforced or Involuntary Disappearances, recognizing its important contribution to the development of the Declaration on the Protection of All Persons from Enforced Disappearance and the Convention itself. Spain had signed the Convention in 2007 and ratified it in 2009, recognizing in 2010 the competence of the Committee under articles 31 and 32 to consider communications. In order to ensure a productive dialogue between the Committee and States parties, he suggested that the Committee should consider adopting the list of issues before the reporting procedure got under way and that it should ensure that dialogues were appropriately focused, avoiding discussion on issues that were addressed in other treaty bodies. It would also be useful to hold the dialogue with States parties in two parts, since

that would give the State party time to prepare its responses to the Committee's questions. It was important that representatives from the State party's capital should be involved in the exchange of views with the Committee; and the use of videoconferencing and other new technology could be helpful in that respect. Concluding observations and the recommendations contained in them should be precise, in order to enable States to take appropriate follow-up action, and they should also encourage all appropriate organizations, particularly national human rights institutions and civil society organizations, to be involved in follow-up. Finally, he suggested that the Committee could benefit from cooperating with the universal periodic review process.

18. **Mr. Otani** (Japan) said that his Government viewed the Convention as an important instrument and shared the Committee's wish to increase the number of States parties to it. Japan was a member of the "Group of Friends" of the Convention and actively encouraged other States to consider becoming a party to it.

19. **Mr. Zeran** (Chile) said that Chile had signed the Convention in 2007, ratifying it two years later, and had also recognized the competence of the Committee to consider communications. He asked for clarification of the link between the Working Group on Enforced or Involuntary Disappearances and the Committee, and asked whether the Committee, as a new treaty body, was involved in the treaty-body strengthening process.

20. **The Chairperson** said that although the Working Group had a mission similar to that of the Committee, the legal status of the two bodies was very different. The Committee, as a treaty body, possessed a strong legal framework, as set out in the Convention. The Committee had already held a productive joint meeting with the Working Group and would continue to cooperate with it to promote their common mission through further joint meetings and ongoing informal dialogue.

21. Treaty-body strengthening would be discussed by the Committee, in particular with regard to how its unique mandate differed from that of other human rights treaty bodies. The Committee intended to work in an open, effective and responsive manner and would have further opportunities to meet with States parties and other States in future.

*The meeting was suspended at 4.05 p.m. and resumed at 4.30 p.m.*

*Meeting with non-governmental organizations*

22. **The Chairperson** welcomed the representatives of non-governmental organizations (NGOs) and called on them to support and inform the Committee in its work. The Convention was the result of cooperation between States, experts and NGOs working in the field of enforced disappearances and it was important that they should continue working together. He commended the NGOs for their vital role in raising awareness and disseminating information on the subject, to victims and the public alike. The Committee's draft rules of procedure provided for the use of modern technological means to keep in touch with its partners. That might prove especially useful for local and grass-roots NGOs, which often had insufficient resources to enable their representatives to travel to Geneva.

23. **Ms. Bacalso** (International Coalition against Enforced Disappearances (ICAED)) said that ICAED consisted of 40 international NGOs and regional and national associations of families of the disappeared from Africa, the Eurasian region, Latin America and the United States. They cooperated to combat the crime of enforced disappearance and promote truth, justice, reparation and remembrance for all those who had disappeared. The Committee's existence was a source of hope for thousands of relatives of disappeared people worldwide. It was, therefore, essential that the Committee should be guaranteed the necessary funding and staffing to carry out its functions in the most effective manner possible.

24. The Committee should ensure that its rules of procedure and methods of work enabled it to carry out its mandate and functions. In order to guarantee its accessibility to civil society, it should establish a participatory process in the forthcoming months, inviting NGOs to express their views and deliver proposals for the consolidated version of the Committee's rules of procedure.

25. The Committee would play a crucial role in combating enforced disappearance under the article 30 urgent action procedure, which it should begin to apply as soon as possible. The procedure should be accessible to those representing the disappeared and appropriately coordinated with existing special procedures and other international monitoring bodies.

26. The Committee should establish close cooperation with the Working Group on Enforced or Involuntary Disappearances in order to enrich its own work, given that the Working Group had some 30 years of experience. The two bodies should coordinate the schedule and venue of their sessions and establish a system of effective communication.

27. Country visits by the Committee were also of crucial importance. Wherever possible, planned visits should be announced as soon as possible, in order to enable the widest possible participation from civil society. In view of the continuing cases of enforced disappearance in Honduras, Iraq, Mexico, Nigeria and Tunisia, the Committee should consider country visits among its possible responses to those situations. It was also of fundamental importance to ensure a regular system of follow-up on the conclusions and recommendations issued at the end of such visits.

28. The Committee should promote the effective implementation of the Convention in States parties' domestic legislation and develop guidelines and tools to assist them in that regard. The 2011 Amnesty International checklist for effective implementation of the International Convention for the Protection of All Persons from Enforced Disappearance was a comprehensive guide for States parties to bring domestic legislation fully into line with the Convention and other international legal norms, and could be a useful tool to promote ratification and implementation.

29. It was important that the Committee should adopt interpretations of the provisions of the Convention that affirmed its central purpose of ending the practice of enforced disappearance, as well as clarifying the numerous and complex obligations of States parties. The Committee would need to offer an interpretation of article 20, which provided for the possible restriction of States parties' obligation to provide information about deprivation of liberty when a set of narrowly defined circumstances were fulfilled. In order to ensure that that provision was not abused, the Committee should interpret it in the light of the spirit and purpose of the Convention. Similarly, the Committee should interpret the definition of a victim pursuant to article 24 of the Convention in a comprehensive manner, in line with international legal norms.

30. In the course of its work, the Committee should pay particular attention to the enforced disappearance of children, including when considering the situation in a State party and during country visits.

31. **The Chairperson** said that it was useful to have suggestions about the Committee's programme of work, which would be posted on its website in future. Given that the Committee did not wish to embark on its work with a backlog, it would need to meet for at least two two-week sessions in 2013 in order to consider the State party reports that were expected to be submitted.

32. **Mr. Heiler** (Amnesty International) said that the Committee's first session marked an important milestone in the international community's efforts to combat enforced disappearances. The Amnesty International checklist for effective implementation of the

Convention should be useful in encouraging States to implement the Convention effectively and fully. His organization wished to work with the Committee towards universal ratification of the Convention and recognition by States parties of the Committee's competence to receive and consider individual communications under article 31.

33. Civil society participation — not only by international organizations but also, and more especially, by regional, national and local grass-roots organizations — was essential to the success of the Committee's work. Webcasting and videoconferencing provided good opportunities to raise awareness of the Committee's work and ensure that people who were unable to travel to Geneva could follow and benefit from it. In addition, the Committee should consider holding occasional sessions outside Europe in order to facilitate the participation of smaller NGOs.

34. The Committee's consideration of requests for urgent action under article 30 of the Convention was an important tool in combating enforced disappearances; it should draw on the experience of the Working Group on Enforced or Involuntary Disappearances in that regard. It should also publish regular progress reports on its work under article 30 in order to ensure that States parties felt sufficient pressure to reply to its requests. Such progress reports could then be discussed at public meetings and information on how States parties were cooperating with the Committee would reach the public domain, which would help NGO advocacy work and compel States parties to resolve individual cases of enforced disappearances.

35. Immediately after a member or members of the Committee had completed a country visit, as provided for in article 33 of the Convention, a preliminary recommendation should be issued, followed by a comprehensive report. Those documents would enable civil society to work with the Committee on follow-up to the visit.

36. Amnesty International was committed to working with the Committee in future. It would endeavour to provide it with all the information necessary to ensure the Committee could discharge its mandate as effectively and efficiently as possible.

37. **Mr. Garcé García y Santos** paid tribute to all the victims of enforced disappearances and those who fought to combat such disappearances, particularly NGOs. On the issue of the interpretation of the Convention, the text of the Convention plotted the ethical and legal progress that had been made over the previous decades. However, for the Committee, it was a starting point. While the Committee worked within a rigorous legal framework, it could undertake advanced interpretations of the text. Thus far, it had focused on article 30, on requests for urgent action; it was committed to providing responses that were as swift and effective as possible. As for future cooperation with NGOs, there was much to be done, particularly in order to increase the number of State parties to the Convention and the number of States that acknowledged the Committee's competence to receive and consider communications under articles 31 and 32.

38. **Mr. Hazan** said that, as a lawyer for the Association of Grandmothers of the Plaza de Mayo, he was well aware of the work of NGOs. The Committee was open to their suggestions, which were particularly important to the current discussion on its rules of procedure. He urged NGOs to continue working closely with the Committee towards universal ratification and recognition of the Committee's competence to receive and consider communications under articles 31 and 32 of the Convention.

39. **Mr. Huhle** said that several mechanisms were currently available for complaints concerning enforced disappearances. He would be interested to learn what strategy NGOs followed when advising victims on which body to address in each particular case of an enforced disappearance in order to attain justice.

40. **Ms. Greenwood** (World Sindhi Congress) drew the Committee's attention to reports of some 175 enforced disappearances in Sindh, in southern Pakistan, at the hands of the Pakistani military and other security agencies. More than 45 Sindhi activists belonging to different student, labour and political organizations had disappeared in 2011 alone. Pakistani security agencies and Sindh police also regularly murdered political activists, as the Human Rights Commission of Pakistan had reported. It was imperative that human rights organizations and the international community should call on the Pakistani Government to stop the killings and abduction of Sindhi political leaders and activists. She requested the Committee to undertake an independent inquiry into such murders and disappearances.

41. **The Chairperson** said that the Committee was not competent to undertake such an inquiry as Pakistan was not a party to the Convention. The World Sindhi Congress should consider addressing other United Nations bodies such as the Working Group on Enforced or Involuntary Disappearances or availing itself of the confidential procedures established by bodies such as the Working Group on Situations.

42. **Ms. Collister** (International Service for Human Rights) said that the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance and the establishment of the Committee sent out a strong message about the criminal nature of enforced disappearance. She saw the Committee as both a forum for constructive dialogue on prevention and an instrument for revealing the fate of victims of enforced disappearance in an effort to help their families find peace. She commended the Committee on its openness and on the importance it attached to working with civil society organizations, which were often in a position to report abuses within civilian populations immediately.

43. The sensitive nature of the issue at hand could expose human rights defenders to a risk of reprisals. It was necessary to raise awareness of that risk and to take steps to mitigate it. The Committee should ensure that allegations of reprisals were raised with the State party concerned in a timely manner or submitted to the relevant special procedure after having obtained the consent of the individual in question. It would be useful for the Committee to appoint a focal point on reprisals to ensure that cases were dealt with efficiently. In cases where there were concerns for the safety of victims, witnesses or human rights defenders, the Committee should assess the effectiveness of the protection measures already in place as part of its consideration of the State party's report. Lastly, the confidential nature of the information provided by NGOs must be respected at all times, while a request for such information to remain confidential should not lead to it being discarded.

44. **The Chairperson** said that reprisals were indeed a cause for concern. In fact, the Working Group on Enforced or Involuntary Disappearances had adopted a general comment and guidelines on the issue. As to the idea of appointing a focal point on reprisals, the Committee intended to appoint a rapporteur for emergency measures and possibly for the protection of human rights defenders. Given that there were only 10 Committee members, it would be best not to create multiple posts. Ensuring respect for confidentiality and protecting those who worked with the Committee featured prominently among its concerns.

45. The Committee would strive to work effectively within the limits of its mandate and in close collaboration with the secretariat to maximize its response capacity. The Committee should avail itself of new technology to facilitate the confidential exchange of information, suggestions and criticism between Committee members and external collaborators. Every effort would be made to make all relevant documents available on the Committee's website, in provisional form if necessary, so as to encourage external input.

46. Certain formalities had to be complied with when submitting complaints to the Committee. A document or an official notification should be sent to the secretariat apprising the Committee of a certain issue in the context of a specific article of the Convention. It was only then that the Committee could proceed to examine the complaint. However, compliance with that formality should not impede informal discussions or suggestions, as Committee members were willing to engage in an ongoing dialogue.

47. Referring to the question raised by Mr. Huhle, he said that some NGOs had ended their involvement with the Working Group on Communications because they perceived it as inefficient. Admissibility criteria needed to be clarified so as to avoid duplication of work by different procedures.

48. **Ms. Llanos Viuda de Navarro** (Federación Latinoamericana de Asociaciones de Familiares de Detenidos-Desaparecidos) said that the federation she represented was made up of 20 organizations and had been working to locate disappeared persons for 30 years. Its records showed there to be around 500,000 disappeared persons in Latin America. It had taken steps to ensure that the highest possible number of Latin American countries ratified the Convention. In the light of reports of enforced disappearances in countries which had ratified it, such as Honduras and Mexico, there was a need to implement the Convention without delay.

49. The permanent nature of the crime of enforced disappearance underscored the need to strengthen relatives' associations and to guarantee the right to obtain reparation and the right to the truth. The commitment of its members and the legal precedent set by the Convention notwithstanding, the Committee would need to show patience in dealing with relatives who were unsure of when, where and how to lodge their complaint, particularly given the existence of the Inter-American Convention on Forced Disappearance of Persons. Recent discussions had reflected the need for the Convention to be disseminated in more user-friendly language so as to ensure that relatives knew how to avail themselves of the various legal instruments at their disposal. The fact that the passing of time only served to limit the options available to those affected by enforced disappearances highlighted the need to intensify efforts at the national level to ensure that victims and relatives received the support to which they were entitled under the Convention.

50. **The Chairperson** said that the balance between conveying the strict legal sense of the Convention and providing its users with instructive documentation written in clear, user-friendly language had featured prominently in the Committee's dialogue with the Working Group.

51. **Mr. Hazan** said that the Committee planned to prepare forms in user-friendly language to facilitate the submission of complaints by victims.

52. **Mr. Huhle** said that it was important for everyone to understand the basic principles of the Convention and for documentation to be made available to that end. Those wishing to avail themselves of the mechanisms of the Convention should first establish whether the State in question was a party thereto in order to avoid wasting time and effort. In order for urgent action to be taken, a complaint should first be lodged with a competent national authority. Furthermore, given that victims should not lodge a complaint under more than one international instrument, it was important to help them in their choice.

53. **Ms. Barbour** (Amnesty International) said that it was impossible to give a comprehensive answer to victims and relatives trying to decide on the most appropriate complaint mechanism, as it was primarily a legal question. However, one of the key factors in taking a decision was the criteria for admissibility of the complaint. Recognizing that those criteria were restricted by the wording of the Convention, she encouraged the Committee to be as flexible as possible in its interpretation thereof. She noted that other committees considered both the admissibility and merits of a complaint and took a decision



on both, which proved valuable even if a complaint was found to be inadmissible. She encouraged the Committee to consider taking up that practice.

54. **The Chairperson** said that if interim measures were requested, they could be based on the principle of prima facie admissibility, at which stage the State party in question could be alerted to the fact that a matter had been drawn to the Committee's attention. The question of examining the admissibility and substance of a complaint separately, in keeping with the practice of the Human Rights Council, would be discussed further. There were various elements of the Convention that were open to interpretation, such as the use of "individual" and "person" in the body of the text and the criteria used to define the hierarchy of violations contained therein, all of which required clarification.

55. **Ms. Lindsey-Hirst** (Institute for Media and Global Governance) asked whether the Committee was considering developing procedures to address enforced disappearances accompanied by flagrant human rights violations in countries in democratic transition. Secondly, she wished to know what action the Committee might consider when enforced disappearances occurred in closed societies where victims were voiceless. Lastly, she would be interested to know whether the Committee was considering developing an effective monitoring and evaluation system based on input from civil society on enforced disappearances around the world.

56. **The Chairperson** said that before the Committee could consider developing procedures to cover exceptional circumstances, it needed to establish its credibility in the eyes of States parties by executing the mandate conferred upon it by the Convention. With regard to enforced disappearances committed by non-State actors in countries in transition, it was the responsibility of the State to criminalize such acts. It was not clear what action the Committee could take to combat enforced disappearances in closed societies, as the Convention was implemented by each State within its territory. Effective monitoring and evaluation of civil society input would depend on the availability of technical resources. In the meantime, the Committee could keep a record of all relevant information and share non-confidential information with other United Nations bodies.

57. **Mr. Garcé García y Santos** said that the Committee attached great importance to coordinating with other United Nations bodies in determining whether States that had not ratified the Convention could be held accountable within another legal framework.

*The meeting rose at 5.30 p.m.*