

Fact Sheet No.

6

Rev. 4



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The background of the cover features a row of portraits on a wall, overlaid with a blue and purple gradient. The portraits are arranged in a grid, and the overall image has a somber and humanistic feel.

Enforced Disappearances

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6

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New York and Geneva, 2023

Enforced Disappearances

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Introduction

*Some men arrive. They force their way into a family's home, rich or poor, house, hovel or hut, in a city or in a village, anywhere. They come at any time of the day or night, usually in plain clothes, sometimes in uniform, always carrying weapons. Giving no reasons, producing no arrest warrant, frequently without saying who they are or on whose authority they are acting, they drag off one or more members of the family towards a car, using violence in the process if necessary.*¹

This is often the first act in the tragedy of an enforced disappearance – a particularly heinous and complex violation of multiple human rights and an international crime. According to the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly in its resolution 61/177 of 20 December 2006, an enforced disappearance is considered to be “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”²

An enforced disappearance creates multiple layers of suffering and damage. Frequently, the disappeared persons are tortured and are in constant fear for their lives, well aware that their families do not know what has become of them and that the chances are slim that anyone can help them. Having been removed from the protection of the law and forcibly “disappeared” from

¹ Independent Commission on International Humanitarian Issues, *Disappeared! Technique of Terror* (London, Zed Books, 1986).

² Art. 2. See also the preamble to the Declaration on the Protection of All Persons from Enforced Disappearance, proclaimed by the General Assembly in its resolution 47/133 of 18 December 1992, according to which an enforced disappearance occurs when “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups, or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law”.

society, they are effectively deprived of all their rights and are at the mercy of their captors. If death is not the final outcome and they are eventually released from their nightmare, the disappeared person usually endures long-term physical and psychological consequences from this crime and from the brutality and torture that often accompany it.

Relatives of disappeared persons, unaware of the fate and whereabouts of their loved ones, are often caught between hope and despair, wondering and waiting, sometimes for years or for their whole life, for news that may never come. Families of the disappeared persons, as well as persons and organizations supporting them in their quest for truth and justice, struggle on a daily basis as they navigate through complex legal frameworks and institutional settings that are often difficult to access. They are likely to be subjected to stigmatization, threats, harassment or reprisals to deter their search and investigation activities.

The suffering of the families of forcibly disappeared persons is exacerbated by the indifference and inaction of authorities in the face of their ordeal. Moreover, the family's distress is frequently compounded by the socioeconomic consequences resulting from the enforced disappearance.³ The disappeared person is often the mainstay of the family's finances. The emotional upheaval is thus worsened by material deprivation, made more acute by the costs incurred to undertake and pursue a search and investigation. Furthermore, the absolute uncertainty as to the possible return of a disappeared person highly complicates the daily management of family life and makes it difficult to adapt to the new situation. In some cases, national legislation may make it impossible to receive pension payments owed to the disappeared person or other means of support, or such payments may be made conditional on obtaining a death certificate. Such processes fail to acknowledge the specificities of enforced disappearances, they can retraumatize the victims, and they often result in the economic and social marginalization of the family and relatives of disappeared persons.

Enforced disappearance has frequently been used as a strategy aimed at spreading terror within society. The feeling of insecurity generated by the practice is not limited to the close relatives of the disappeared; it

³ Committee on Enforced Disappearances and Working Group on Enforced or Involuntary Disappearances, "Enforced disappearances: It's urgent to address economic, social and cultural rights of victims," joint statement, 27 August 2021, available at www.ohchr.org/en/press-releases/2021/08/enforced-disappearances-its-urgent-address-economic-social-and-cultural?LangID=E&NewsID=27412.

extends to the communities to which the disappeared person belongs and to the general public. Hence, society at large has a right to know the truth about what happened whenever a person is forcibly disappeared. Truth and justice are key to prevent similar acts, while the lack of effective search and investigation, and the ensuing impunity, favour their recurrence.

Enforced disappearance has become a global problem, and is not restricted to a specific region of the world. Once largely a practice of military dictatorships, enforced disappearances can be perpetrated in complex situations of internal conflict of any kind, especially as a means of political repression of opponents. New patterns are emerging, including that of short-term enforced disappearances, whereby persons are placed in secret detention, outside the protection of the law. They may resurface shortly thereafter, either dead or alive. If they are alive, it is likely that they have been tortured, without ever having been brought before a judge or any other civil authority. “Short-term enforced disappearances” also occur when persons are detained (sometimes in the context of demonstrations) and the authorities subsequently refuse to provide information about the location of those persons. Enforced disappearances can also take place in the context of migration, sometimes when individuals leave their country as a consequence of a threat or risk of being subjected to enforced disappearance there. People sometimes disappear during their journey or in the country of destination. Enforced disappearances can take the form of abductions for political or other reasons, they can occur in the context of detention or deportation processes, or they may be a consequence of smuggling or trafficking.⁴

In some cases, States may resort to transnational transfers leading to enforced disappearances with the participation, support or acquiescence of other States, in an attempt to capture their nationals or third-country nationals, often as part of purported counter-terrorism operations.

In addition, non-State actors that exercise government-like functions or de facto control over territory and population are increasingly implicated in the commission of disappearances, often in the context of extrajudicial executions or in organized crime activities, such as trafficking in persons.

⁴ See report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration (A/HRC/36/39/Add.2). See also CED/C/HND/CO/1, para. 29, CED/C/GAB/CO/1, para. 20, CED/C/GRC/CO/1, paras. 21 and 27, CED/C/MEX/VR/1 (Recommendations), paras. 36–53, and CED/C/NER/CO/1, para. 27.

Whatever the circumstances of a disappearance, special attention must be paid to women, children, migrants, indigenous peoples, political activists, human rights defenders, lesbian, gay, bisexual, transgender and intersex persons and persons with disability, all of whom are often the targets of such acts. Whatever the status of a victim of an enforced disappearance, be they a disappeared person or the family member or relative of a disappeared person, the competent authorities must adopt a differential approach, ensuring that the specific needs of the victim are addressed at all the stages of the procedure, including during the search, investigation, prosecution and reparation processes, and whenever the body or remains of a disappeared person are returned to the person's family or relatives.

Specific attention must be paid to the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence.⁵ Women who are relatives of a disappeared person are also particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisal as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves have been subjected to disappearance or because they suffer the consequences of the disappearance of their relatives, are especially vulnerable to numerous human rights violations.

In addition, particular concern exists as to the persisting widespread impunity over cases of enforced disappearance.

⁵ Working Group on Enforced or Involuntary Disappearances, general comment on women affected by enforced disappearances ([A/HRC/WGEID/98/2](#)).

I. Definition of enforced disappearance in the Declaration on the Protection of All Persons from Enforced Disappearance and in the International Convention for the Protection of All Persons from Enforced Disappearance

A. Definition of enforced disappearance in the Declaration on the Protection of All Persons from Enforced Disappearance

The preamble to the Declaration on the Protection of All Persons from Enforced Disappearance enshrines the first internationally agreed definition of enforced disappearance in the following terms: it occurs when “persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.”

Pursuant to this definition, there are three cumulative constitutive elements of an enforced disappearance, namely (a) deprivation of liberty in any form against the will of the person concerned; (b) involvement of government officials, at least indirectly by acquiescence; and (c) refusal to disclose the fate and whereabouts of the person concerned. The placement outside the protection of the law of the disappeared person is an inherent consequence, regardless of the duration of the deprivation of liberty or concealment.

B. Definition of enforced disappearance in the International Convention for the Protection of All Persons from Enforced Disappearance

According to article 2 of the Convention, enforced disappearance “is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by

concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”

The definition enshrined in the Convention reflects, with slight nuances, the one contained in the preamble to the Declaration and includes three cumulative constitutive elements: (a) deprivation of liberty in any form against the will of the person concerned; (b) involvement of government officials, at least indirectly with their authorization, support or acquiescence; and (c) refusal to disclose the fate and whereabouts of the person concerned.

According to article 2 of the Convention, enforced disappearance places the disappeared person outside the protection of the law. This provision confirms that, in every enforced disappearance, the disappeared person is totally defenceless and, as an inherent consequence, is deprived of any form of protection from the law.

In order to constitute an enforced disappearance, the deprivation of liberty must be followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, regardless of the duration of the said deprivation of liberty or concealment.

Under article 2, States parties are therefore responsible for enforced disappearances committed by public officials, whatever the circumstances. States parties are also responsible under the same article for enforced disappearances committed by persons or groups of persons, such as criminal organizations, acting with the authorization, support or acquiescence of the State. This includes situations where criminal organizations or armed groups effectively control State authorities or where such organizations receive some form of support from State agents, or where there is a known pattern of disappearances of persons and the State fails to take the necessary measures to prevent further disappearances or to investigate them and bring the perpetrators to justice. Thus, a violation, even if it is initially not directly attributable to the State, may raise its international responsibility for lack of due diligence to prevent such violations or to address them in accordance with the requirements imposed by international standards, including the Convention.

II. Rights violated by enforced disappearances

Enforced disappearances entail the violation of multiple human rights embodied in the Universal Declaration of Human Rights and set out in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as in other major international human rights instruments, including:

- The right not to be subjected to enforced disappearance
- The right to recognition as a person before the law
- The right to liberty and security of the person
- The right not to be held in secret detention
- The right to fair trial and to judicial guarantees
- The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (with regard to the disappeared person, relatives of that person or any other person who has suffered a direct harm as a result of the enforced disappearance)
- The right to life
- The right to an identity
- The right to know the truth of the fate and whereabouts of a disappeared person and the circumstances of the disappearance
- The right to an effective remedy, including reparation and adequate compensation

Moreover, enforced disappearance, by its nature, violates the economic, social and cultural rights⁶ of disappeared persons and of their families and relatives, such as:

- The right to protection of and assistance to the family
- The right to an adequate standard of living
- The right to health
- The right to education
- The right to work
- The right to housing (noting that many forced displacements are a consequence of disappearances)

⁶ Working Group on Enforced or Involuntary Disappearances, study on enforced or involuntary disappearances and economic, social and cultural rights (A/HRC/30/38/Add.5) and general comment on the right to recognition as a person before the law in the context of enforced disappearances (A/HRC/19/58/Rev.1), para. 42).

- The right to social security
- The right to adequate food

Specific rights are violated, depending on the profile of the victims. For example, when children are the direct victims of an enforced disappearance, their disappearance constitutes a contravention of article 20 of the Declaration on the Protection of All Persons from Enforced Disappearance and of article 25 of the International Convention for the Protection of All Persons from Enforced Disappearance, as well as of a number of provisions of the Convention on the Rights of the Child, including the right to a personal identity. In addition, the International Convention for the Protection of All Persons from Enforced Disappearance establishes the wrongful removal of children as a crime in itself (art. 25 (1) (a)) and the enforced disappearance of minors as an aggravating circumstance (art. 7 (2) (b)). It also sets out the obligation to prevent such crimes and to search for, identify and locate children who have been victims of wrongful removal (art. 25). The loss of a parent through enforced disappearance constitutes a serious violation of a child's human rights.⁷ Specific rights may also be violated depending on the sex, age, nationality, sexual orientation, gender identity, place of origin and racial or ethnic origin, disability, socioeconomic status or other characteristics relevant in the national context.

Enforced disappearances can involve serious breaches of non-conventional international instruments, including the United Nations Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in 1957, the Code of Conduct for Law Enforcement Officials and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly in 1979 and 1988 respectively, and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in 2005.

⁷ A/HRC/WGEID/98/1. See also CED/C/URY/CO/1, para. 38; CED/C/ARG/CO/1; CED/C/ESP/OAI/1, paras. 26–27; CED/C/ARM/CO/1, para. 31; CED/C/IRQ/CO/1, para. 40; CED/C/MEX/VR/1 (Recommendations), paras. 87 and 93; CED/C/SEN/CO/1, para. 44; CED/C/BOL/CO/1, para. 43; CED/C/SVK/CO/1, para. 29; CED/C/CHE/CO/1, paras. 37–40. See also Committee on Enforced Disappearances, guiding principles for the search for disappeared persons (CED/C/7) [see annex VI], Principle 4.2.

III. The Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances

A. Two international human rights mechanisms created to address enforced disappearances

The Working Group on Enforced or Involuntary Disappearances and the Committee on Enforced Disappearances are the two international human rights mechanisms in charge of addressing enforced disappearances. Their mandate is to support States and victims to eradicate and prevent enforced disappearances.

The Working Group is a special procedure established by a resolution of the Commission on Human Rights (which was succeeded by the Human Rights Council in 2006).

The Committee is a treaty body created by the International Convention for the Protection of All Persons from Enforced Disappearance.

They both deal with the gross human rights violation of enforced disappearance, but each has a specific mandate and procedures through which they complement each other's work.

B. The Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances in a nutshell⁸

What is the Working Group on Enforced or Involuntary Disappearances?

The Working Group on Enforced or Involuntary Disappearances was established in 1980 by the Commission on Human Rights. It is one of the more than 40 thematic special procedures of the Human Rights Council.

⁸ See "Working Group on Enforced or Involuntary Disappearances (WGEID) 'in a nutshell'; Committee on Enforced Disappearances (CED) 'in a nutshell'". Available at www.oacnudh.org/wp-content/uploads/2022/09/WGEID-CED-InglesWEB.pdf.

The Working Group on Enforced or Involuntary Disappearances is composed of five independent experts of balanced geographic representation appointed by the Human Rights Council.

The secretariat of the Working Group is based in Geneva.

See www.ohchr.org/en/special-procedures/wug-disappearances and www.ohchr.org/en/special-procedures-human-rights-council.

What is the Committee on Enforced Disappearances?

The Committee on Enforced Disappearances was established in December 2010 following the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance. It initiated its activities in 2011 and is one of the 10 human rights treaty bodies.

The Committee on Enforced Disappearances is composed of 10 independent experts nominated by States that have ratified the Convention (States parties).

The secretariat of the Committee is based in Geneva.

See www.ohchr.org/en/treaty-bodies/ced and www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-all-persons-enforced.

On which countries can the Working Group on Enforced or Involuntary Disappearances act, and on what basis?

The Working Group on Enforced or Involuntary Disappearances is competent with regard to all Member States of the United Nations.

It carries out its monitoring mandate on the basis of the Declaration on the Protection of All Persons from Enforced Disappearance, which was adopted by the General Assembly in 1992. The Declaration forms part of what is referred to as “soft law”. As such, it provides guidance to all States, without the need for ratification or accession.

The Working Group on Enforced or Involuntary Disappearances performs its mandate mainly through the following procedures:

- Cases (dealt with under either the urgent procedure or the standard procedure);
- Urgent appeals and other communications;

- Prompt intervention letters;
- General allegations;
- Country visits;
- Referral.

See www.ohchr.org/en/instruments-mechanisms/instruments/declaration-protection-all-persons-enforced-disappearance.

On which countries can the Committee on Enforced Disappearances act, and on what basis?

The Committee on Enforced Disappearances can intervene with regard to the States that have ratified – or acceded to – the Convention (States parties). The Convention is international human rights treaty law, which becomes legally binding upon States that ratify or accede to it.

The procedures and functions that apply to all States parties are:

- Examination of States' reports (art. 29)
- Urgent actions (art. 30)
- Individual complaints (art. 31)
- Inter-State complaints (art. 32)
- Country visits (art. 33)
- Referral of systematic enforced disappearances to the General Assembly (art. 34)
- General comments (rule 56 of the Committee's rules of procedure).

For individual and inter-State complaints (arts. 31 and 32), the Committee on Enforced Disappearances can only deal with complaints against States parties that have made a specific declaration recognizing the competence of the Committee to deal with complaints against them. States parties under this procedure are expected to give effect to the conclusions and recommendations made under it.

How does the Working Group on Enforced or Involuntary Disappearances carry out its work?

- The Working Group works all year round.
- It meets in sessions three times per year, during which it reviews and transmits individual cases, meets with relatives of the disappeared persons, representatives of States and other stakeholders, and discusses other issues related to its mandate. When not in session, the Working Group works remotely.

- The Working Group undertakes two country visits per year and submits annual and thematic reports to the Human Rights Council.

How does the Committee on Enforced Disappearances carry out its work?

- The Committee works all year round.
- The Committee meets in session twice a year, during which it examines reports from States parties, adopts and transmits recommendations to States parties, follows up on the implementation of recommendations, addresses individual cases through urgent actions and individual complaints, and addresses issues of concern. When not in session, the Committee works remotely on a daily basis.
- When it is notified of serious violations of the Convention, the Committee may, after consultation with the State party concerned, carry out country visits.

What does the Working Group on Enforced or Involuntary Disappearances do?

The Working Group on Enforced or Involuntary Disappearances has a twofold mandate:

1. Humanitarian mandate

The Working Group receives, examines and transmits to Governments reports of enforced disappearances submitted by relatives of disappeared persons or human rights organizations acting on their behalf to assist families in determining the fate and whereabouts of their family members who are reportedly disappeared. This is done through two main procedures:

- **Urgent procedure.** The Working Group transmits urgently to the State concerned alleged cases of enforced disappearance that occurred within the three months preceding receipt of the report or that began prior to the three-month limit, but not more than one year before their receipt, provided that they had a connection with a case that occurred within the three-month period.
- **Standard procedure.** The Working Group transmits after each session cases that occurred more than three months prior to receipt of the report.

Since 2019, the Working Group has documented cases tantamount to enforced or involuntary disappearances allegedly perpetrated by non-State actors exercising Government-like functions or de facto control over territory and population.

2. **Monitoring mandate**, carried out through the following procedures

- **Urgent appeals.** The Working Group may send an urgent appeal (a) whenever it receives credible allegations that a person has been arrested, detained, abducted or otherwise deprived of liberty and has been forcibly disappeared or is at risk of being disappeared; or (b) whenever it deems it necessary in view of the situation. In such cases, together with the other special procedure mandates concerned, the Working Group transmits the allegations to the State concerned by the most direct and rapid means, and requests that State to investigate the matter and inform the Working Group.
- **Prompt intervention letters.** Cases of intimidation, harassment, persecution or reprisal against relatives of disappeared persons, witnesses to disappearances or their families, members of organizations of relatives and other non-governmental organizations (NGOs), human rights defenders or individuals concerned with disappearances are transmitted to the pertinent States, with the appeal that they take steps to protect all the fundamental rights of the persons affected. Cases of that nature requiring prompt intervention are transmitted directly through the most direct and rapid means.
- **General allegations.** The Working Group regularly transmits to the Governments concerned a summary of allegations received from relatives of disappeared persons and NGOs with regard to obstacles encountered in the implementation of the Declaration in their respective countries, inviting them to comment thereon if they so wish.
- **Country visits.** Upon previous consent by the relevant Government, the Working Group can visit a country to assess the overall situation of enforced disappearances. It will then release a report on its visit and will subsequently follow up on the implementation of the recommendations contained therein.
- **Technical assistance, cooperation and advisory services.** The Working Group can assist States in overcoming obstacles to the realization of the Declaration. This is done both while carrying out country visits and upon specific request.

- **Referral.** If the Working Group receives claims of practices of enforced disappearance that may amount to crimes against humanity (i.e. perpetrated in the context of a widespread or systematic attack against any civilian population), it will evaluate these claims and, if appropriate, refer them to the competent authorities, be they national, international, regional or subregional.

What does the Committee on Enforced Disappearances do?

The functions of the Committee on Enforced Disappearances are defined in articles 26 to 36 of the Convention.

The Committee accordingly conducts its work through the following procedures:

- **Examination of States parties' reports** (art. 29) to assess the measures taken by States parties to give effect to the Convention. Under this procedure, the State submits a report, and civil society actors provide information on the situation of the State party as regards the Convention. On this basis, the Committee on Enforced Disappearances adopts a list of questions and then conducts a dialogue or has exchanges with the State party and with civil society actors. Following these exchanges, the Committee issues concluding observations with recommendations to the State. It then follows up on their implementation to assess the measures taken by the State and provides guidance in that regard.
- **Urgent actions** (art. 30) to request a State party to take immediate measures to locate a disappeared person. Where necessary, the Committee can request the State party concerned to adopt interim measures of protection:
 - (i) To protect the disappeared person, the person's family or relatives, or any persons linked with the case;
 - (ii) To protect pieces of evidence that may be of relevance for the case.
- **Individual communications** (art. 31). Under this procedure, an individual or individuals can submit a complaint to the Committee when they consider that a State party has violated their rights under the Convention, or are likely to do so (such as in cases of forced return to a country where the person would be at risk of suffering enforced disappearance).
- In such cases, the Committee determines whether the State party has committed violations. The Committee reflects its decision in a document called "Views". When it considers that there has been a violation of the

Convention, the Committee can request the State party concerned to take measures to repair or prevent the damage, and to avoid similar violations in the future.

- Under this procedure, the authors of the complaint can also request the Committee to grant interim measures to protect them, or any persons related to the case or pieces of evidence that may be of relevance, from irreparable harm.
- **Inter-State communications** (art. 32). Under this procedure, the Committee examines the claim submitted by a State party according to which another State party is not fulfilling its obligations under the Convention.
- **Country visits** (art. 33). When it receives reliable information that a State party is seriously violating the Convention, the Committee may carry out a visit to that State party. The Committee can only carry out such a visit upon receipt of the consent of the State concerned. After the visit, the Committee issues a report to reflect its findings and recommendations. It then follows up on the measures taken by the State party to implement the recommendations.
- **Referral to the General Assembly of information about systematic enforced disappearances** (art. 34). If the Committee receives well-founded information that enforced disappearance is being practised on a widespread or systematic basis in a State party, it may bring the matter to the attention of the General Assembly, through the Secretary-General, after seeking information from the State concerned.
- **General comments** (under rule 56 of the Committee's rules of procedure) are aimed at clarifying dispositions of the Convention to promote its implementation, and at assisting States parties in fulfilling their obligations. The Committee determines the theme to address in view of the importance of an issue and of the needs observed in that connection. The drafting of general comments involves a substantial process of consultation in which all actors related to the issue at stake are invited to take part through written contributions and oral participation in regional consultations and days of general discussion.

What information should be included in a case submitted to the Working Group on Enforced or Involuntary Disappearances?

A report of a case of enforced disappearance shall be submitted in English, French or Spanish.

Such reports must include, as a minimum, the following information:

- (a) Full name of the disappeared person and, if possible, the person's date of birth, gender, nationality and occupation or profession;
- (b) Date of disappearance, i.e. the day, month and year of arrest or abduction or the day, month and year when the disappeared person was last seen;
- (c) Place of arrest or abduction or where the disappeared person was last seen;
- (d) Parties presumed to have carried out the arrest or abduction or to be holding the disappeared person in unacknowledged detention;
- (e) The steps taken to determine the fate or whereabouts of the disappeared person, or at least an indication that efforts to use domestic remedies were frustrated or otherwise inconclusive.

See the form/guidelines for the submission of a request to the Working Group on Enforced or Involuntary Disappearances below (annex III).

What information should be included in an urgent action request submitted to the Committee on Enforced Disappearances?

Requests for urgent action to the Committee on Enforced Disappearances must be submitted in writing in English, French, Russian or Spanish.

Such requests must include, as a minimum, the following information:

- (a) A detailed description of the facts;
- (b) The identity of the disappeared person;
- (c) The date and circumstances of the disappearance and, if available, information on the alleged perpetrators;
- (d) The steps that have been taken to report the disappearance to (at least one of) the competent authorities of the State and the reply they have provided;
- (e) If interim measures of protection are necessary, the persons or pieces of evidence for which they are requested, and the reasons why they are needed.

See the form/guidelines for the submission of a request to the Committee on Enforced Disappearances below (annex IV).

How long does the Working Group on Enforced or Involuntary Disappearances keep a case open?

A case remains on the file of the Working Group on Enforced or Involuntary Disappearances until it is clarified, i.e. when the fate and whereabouts of the disappeared person are established.

How long does the Committee on Enforced Disappearances keep an urgent action open?

The Committee on Enforced Disappearances keeps the urgent action open until the disappeared person is located. Different modalities apply, however, depending on the situation:

- If the **disappeared person has been found at liberty or found and released, or has been found dead**, the urgent action is closed.
- If the **disappeared person has been located but is still detained**, the urgent action is discontinued.
- If the disappeared person has been located but **the persons for whom interim measures have been granted in the context of the urgent action are still under threat**, the urgent action remains open to follow up on the implementation of the interim measures.
- If the **author of the request for urgent action can no longer provide follow-up information**, the urgent action is suspended for as long as no information is made available.

Competence *ratione temporis* of the Working Group on Enforced or Involuntary Disappearances

There is no time limit with respect to the competence of the Working Group on Enforced or Involuntary Disappearances to review cases of enforced disappearance. So far, however, the Working Group has followed the practice to register only cases of enforced disappearance that commenced after 1945, the founding date of the United Nations.

What is the competence of the Committee on Enforced Disappearances with regard to disappearances committed before the entry into force of the Convention?

Article 35 of the Convention establishes that the Committee on Enforced Disappearances is competent in respect of enforced disappearances that commenced after the entry into force of the Convention.

The Committee on Enforced Disappearances adopted a statement to clarify this provision, in which it held that:

1. In the context of the reporting process (art. 29), the Committee on Enforced Disappearances can take information related to enforced disappearances that commenced prior to the entry into force of the Convention as a means to understand the challenges of the present.
2. The Committee has no competence to examine individual cases concerning enforced disappearances as such which commenced before the entry into force of the Convention. This means that:
 - For urgent actions (art. 30), the Committee cannot activate the procedure for a disappearance that commenced before the entry into force in the State party concerned.
 - For individual communications (art. 31), the Committee cannot address a disappearance that occurred before the entry into force of the Convention as such, but can still consider that it has jurisdiction to examine facts relating to disappearances that have occurred after the entry into force of the Convention (for example with regard to the relevant processes of search or investigation).

When should a case be submitted to the Working Group on Enforced or Involuntary Disappearances?

- If the enforced disappearance concerned commenced prior to the entry into force of the Convention; or
- If the alleged enforced disappearance occurred in the territory of a non-State party to the Convention.

If a person submits a case referring to an unforced disappearance that commenced after the entry into force of the Convention to the Working Group, the Working Group consults with the source and, if the source agrees, the Working Group refers the case to the Committee for action.

When should a case be submitted to the Committee on Enforced Disappearances?

If the alleged enforced disappearance commenced after the entry into force of the Convention and:

- It took place in the territory of, or was perpetrated by agents of, a State party to the Convention; or
- It took place when the disappeared person had the nationality of a State party.

As a rule, the Committee cannot register an urgent action for a case that has already been registered by the Working Group.

What the Working Group on Enforced or Involuntary Disappearances cannot do

In compliance with its mandate, the Working Group on Enforced or Involuntary Disappearances:

- Does not directly investigate individual cases
- Does not directly intervene in the field to protect individuals from reprisals (rather, the Working Group can send prompt intervention letters to the States concerned)
- Does not establish individual or State responsibility in cases of enforced disappearance
- Does not judge or sanction
- Does not carry out exhumations
- Does not grant satisfaction or reparation
- Does not provide financial, medical or psychosocial support to individuals

What the Committee on Enforced Disappearances cannot do

In compliance with its mandate, the Committee on Enforced Disappearances:

- Does not directly investigate individual cases
- Does not directly protect individuals from reprisals (rather, the Committee can request the State party concerned to adopt interim and protection measures and to follow up on the implementation of such measures)
- Does not establish individual responsibility in cases of enforced disappearance (the Committee's mandate focuses on the responsibility of the State)

- Does not carry out exhumations
- Does not provide financial, medical or psychosocial support to individuals

Do I have to pay to get support from the Working Group on Enforced or Involuntary Disappearances?

Never. All procedures of the Working Group are free of charge.

Do I have to pay to get support from the Committee on Enforced Disappearances?

Never. All procedures of the Committee on Enforced Disappearances are free of charge.

Is there any danger in submitting a case to the Working Group on Enforced or Involuntary Disappearances?

Sources are always kept confidential and names are not made public to ensure individuals are protected. In cases of reprisals, a prompt intervention letter can be sent by the Working Group to the Government concerned. However, it is important that sources are aware that the Working Group is not able to provide physical protection measures.

If you consider that you, your organization or other actors have suffered reprisals, attacks, intimidations or threats for your cooperation with the Working Group, please contact the secretariat immediately by sending an email to hrc-wgeid@un.org.

Is there any danger in engaging with the Committee on Enforced Disappearances?

The Committee is very concerned about the safety of individuals and organizations that engage with it and contribute to its work. Attacks, threats and acts of intimidation against individuals or organizations who cooperate, seek to cooperate or have cooperated with the Committee are absolutely prohibited. In cases of reprisals, the Committee applies its “Guidelines to prevent and address intimidation and reprisals against individuals and groups cooperating with the Committee”. This includes the transmittal of a written communication to the State concerned requesting that these acts cease and that protective measures be taken immediately.

To prevent such acts:

- The Committee never reveals the source of the information submitted with regard to requests for urgent action
- All persons contributing to the work of the Committee can request that their inputs, parallel reports or any other form of interaction be kept confidential

If you consider that you, your organization or other actors have suffered acts of intimidation or reprisal, please inform the Committee immediately by sending an email to ohchr-ced@un.org and ohchr-petitions@un.org.

In the message, please explain:

- What happened? To whom, when and how?
- Why you consider that the reprisals/attacks/intimidations/threats are linked to your interaction with the Committee
- Do you request any interim measures of protection? If so, what measures do you consider necessary?

What can the Working Group on Enforced or Involuntary Disappearances do in the event of reprisals?

In cases of reprisals, the Working Group can send **prompt intervention letters** to the pertinent Governments, with the appeal that they take steps to protect all the fundamental rights of the persons affected. Cases of that nature requiring prompt intervention are transmitted to the State concerned through the most direct and rapid means.

The Working Group may also refer cases of intimidation or harassment to the dedicated special procedure focal point.

What can the Committee on Enforced Disappearances do in the event of reprisals?

In the context of urgent actions and individual complaints the Committee on Enforced Disappearances can request the adoption of interim measures. In such cases, you can also inform the Committee's rapporteur on reprisals.

For all other procedures, the Committee's rapporteur on reprisals can bring the case to the attention of the State party concerned. In such situations, the rapporteur requests the State to cease immediately all acts of reprisal or intimidation and can request the State party to adopt interim measures

of protection. For more information about the rapporteur's interventions, see the guidelines to prevent and address intimidation and reprisals against individuals and groups cooperating with the Committee ([CED/C/8](#)).

Who are the partners of the Working Group on Enforced or Involuntary Disappearances?

To discharge its mandate, the Working Group engages with victims (persons who suffered enforced disappearances and family and relatives of disappeared persons), civil society organizations, Member States, national human rights institutions, academic institutions, and agencies and programmes of the United Nations, both at Headquarters and in the field.

Who are the partners of the Committee on Enforced Disappearances?

To discharge its mandate, the Committee engages with States parties, victims (persons who suffered enforced disappearances and family and relatives of disappeared persons), civil society organizations, national human rights institutions, academic institutions, and agencies and programmes of the United Nations, both at Headquarters and in the field.

The Committee also works very closely with other treaty bodies, the special procedures of the Human Rights Council, and African, European and inter-American human rights mechanisms.

What can victims, civil society organizations and national human rights institutions do before the Working Group on Enforced or Involuntary Disappearances?

Victims, civil society organizations and national human rights institutions can:

- Assist relatives of disappeared persons in submitting cases to the Working Group or in sending prompt intervention letters
- Present general allegations
- During country visits, organize meetings with the Working Group and submit relevant information.

What can victims, civil society organizations and national human rights institutions do before the Committee on Enforced Disappearances?

Victims, civil society organizations and national human rights institutions can:

- Submit an urgent action request, as long as they have a legitimate interest in doing so
- Submit an individual complaint on behalf of a victim
- Submit contributions and provide oral briefings to the Committee for the review of States parties' reports or for country visits
- Contribute to discussions related to the drafting of general comments and substantive declarations of the Committee.

To which bodies does the Working Group on Enforced or Involuntary Disappearances report?

Every year, the Working Group reports to the Human Rights Council and makes an oral address to the General Assembly.

To which bodies does the Committee on Enforced Disappearances report?

Every year, the Committee presents a written report and makes an oral presentation to the General Assembly.

How to communicate with the Working Group on Enforced or Involuntary Disappearances

Information to the Working Group shall be submitted in writing, preferably by email in English, French or Spanish.

Email address: hrc-wg-aid@un.org

In case you do not have access to the Internet, you can also submit information to the following postal address:

Working Group on Enforced or Involuntary Disappearances
OHCHR-UNOG
8-14 Avenue de la Paix,
1211 Geneva 10, Switzerland

How to communicate with the Committee on Enforced Disappearances

- **For the examination of States parties**

Information to the Committee on Enforced Disappearances shall be submitted in writing, preferably by email in English, French or Spanish.

Email address: ohchr-ced@un.org

In case you do not have access to the Internet, you can also submit information to the following postal address:

Committee on Enforced Disappearances
OHCHR-UNOG
8-14 Avenue de la Paix,
1211 Geneva 10, Switzerland

- **For individual complaints and urgent actions**

Email address: ohchr-petitions@un.org

Postal address:

Petitions and Urgent Actions Section
Committee on Enforced Disappearances
OHCHR-UNOG
8-14 Avenue de la Paix,
1211 Geneva 10, Switzerland

Working Group on Enforced or Involuntary Disappearances newsletter

Since May 2022, the Working Group has periodically published a newsletter containing information about its activities, sessions, decisions and recommendations, and about relevant developments related to its work.

All Working Group newsletters can be accessed via the following web page: www.ohchr.org/en/special-procedures/wg-disappearances/newsletters.

You can subscribe to the Working Group newsletter by sending an email to hrc-wg-eid@un.org.

Committee on Enforced Disappearances newsletter

Since October 2020, the Committee has periodically published a newsletter containing information about its activities, sessions, decisions and recommendations, and about relevant developments related to its work and how to contribute to it.

All Committee newsletters can be accessed via the following web page: www.ohchr.org/en/treaty-bodies/ced/newsletters.

To subscribe to the Committee on Enforced Disappearances newsletter, please send an email to ohchr-ced@un.org.

IV. The Declaration on the Protection of All Persons from Enforced Disappearance and the Working Group on Enforced or Involuntary Disappearances

A. Declaration on the Protection of All Persons from Enforced Disappearance

The General Assembly, in its resolution 47/133 of 18 December 1992, proclaimed the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States (see [annex I](#)).

In the preamble to the Declaration, the General Assembly recalled that the acts which comprise enforced disappearance constitute a violation of the prohibition found in other international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It affirmed the importance of devising an instrument that characterizes all acts of enforced disappearance of persons as very serious offences and sets forth standards designed to punish and prevent their commission. The Assembly also recalled that the systematic practice of enforced disappearance is of the nature of a crime against humanity.

According to the Declaration, any act of enforced disappearance constitutes a violation of the rules of international law guaranteeing, *inter alia*, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life. States are under an obligation to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance, and in particular to consider them a continuing offence and to establish civil liability.

The Declaration also refers to the right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty, as well as to unhampered access by national authorities to all places of detention, the maintenance of centralized registers of all persons in detention, the duty to investigate fully

all alleged cases of disappearance and the duty to try alleged perpetrators of disappearances before competent ordinary courts and not special tribunals, in particular military courts. All persons involved in the investigation of cases of enforced disappearance shall be protected against ill-treatment, intimidation or reprisal. Statutes of limitations relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence, and perpetrators shall not benefit from any special amnesty law or similar measures that might lead to impunity.

The Declaration provides that the victims of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible.⁹

The Declaration pays special attention to the disappearance of children and to the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance. States must devote their efforts to the search for, and identification of, such children and to their restitution to their families of origin.

The World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, welcomed the adoption of the Declaration by the General Assembly and called upon all States “to take effective legislative, administrative, judicial or other measures to prevent, terminate and punish acts of enforced disappearance.” The World Conference reaffirmed that it was “the duty of all States, under any circumstances, to make investigations whenever there is reason to believe that an enforced disappearance has taken place on a territory under their jurisdiction and, if allegations are confirmed, to prosecute its perpetrators.”

Since 1993, the Commission on Human Rights and its successor, the Human Rights Council, have regularly adopted resolutions in which they have invited all Governments to take appropriate legislative or other steps to prevent and punish the practice of enforced disappearance, with special reference to the Declaration, and to take action to that end nationally, regionally and in cooperation with the United Nations. States and other stakeholders have been regularly invited – by the General Assembly and other bodies – to contribute to the promotion and dissemination of the

⁹ On the interpretation of the notion of measures of reparation in cases of enforced disappearance, see the report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/22/45), paras. 46–68.

Declaration, including by translating it into their respective national languages and by ensuring that the training of law enforcement personnel and public officials includes the necessary education and information on this legal instrument.

Notwithstanding the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, the Declaration remains a fundamental tool in the fight against enforced disappearance. It forms part of what is referred to as “soft law” and, as such, it provides guidance to all States, without the need for ratification or accession.

B. Working Group on Enforced or Involuntary Disappearances

The Commission on Human Rights, in its resolution 20 (XXXVI) of 29 February 1980, decided to establish a working group of five independent experts to examine questions relevant to the enforced disappearance of persons. Since then, the mandate of the Working Group has been regularly renewed. The Human Rights Council, in its resolution 45/3, adopted in October 2020, renewed the mandate of the Working Group for three years.

The Working Group¹⁰ is one of the more than 40 thematic special procedures of the Human Rights Council.¹¹ The main feature of these mechanisms is that they are Charter-based, meaning that they derive their competence from the Charter of the United Nations and not from a specific treaty.

Hence, the Working Group is competent with regard to the subject of enforced disappearance in all the Member States of the United Nations, without prejudice to their status as parties to any human rights treaty, including the International Convention for the Protection of All Persons from Enforced Disappearance.

The Working Group meets three times a year for five to eight working days, usually in Geneva. The meetings are held in private. However, the Working Group regularly invites representatives of Governments, NGOs, family members and witnesses to meet with it.

¹⁰ See www.ohchr.org/en/special-procedures/wg-disappearances.

¹¹ See www.ohchr.org/en/special-procedures-human-rights-council#:~:text=The%20special%20. As at November 2022, the special procedures comprised 45 thematic mandates and 14 country-specific mandates.

The Working Group has a humanitarian mandate to assist families in determining the fate and whereabouts of their disappeared relatives who are placed outside the protection of the law. To this end, the Working Group endeavours to establish a channel of communication between the families and the States concerned, with the aim of clarifying the fate and whereabouts of disappeared persons. The Working Group does not determine responsibility for specific cases of enforced disappearance or for other related human rights violations. Since 1992, the Working Group has also been entrusted with monitoring States' progress in implementing the Declaration. Whenever the Working Group determines that the Declaration requires further clarification or interpretation in the context of international law, it adopts general comments.¹² The Working Group has also adopted thematic studies on broad issues relating to enforced disappearance and emerging phenomena, including a study on standards and policies for effective investigation of enforced disappearance and a study on enforced disappearance in the context of migration.

Moreover, the Working Group assists Member States in overcoming obstacles in the implementation of the Declaration, in particular through technical assistance, cooperation and advisory services.

Pursuant to its methods of work,¹³ the Working Group performs its mandate mainly through the following procedures:

1. Cases (dealt with under either the urgent procedure or the standard procedure)
2. Urgent appeals and other communications
3. Prompt intervention letters
4. General allegations
5. Country visits
6. Referral

The Working Group reports annually to the Human Rights Council on its activities.

¹² See www.ohchr.org/en/special-procedures/wg-disappearances/general-comments.

¹³ See [A/HRC/WGEID/102/2](http://www.ohchr.org/en/special-procedures/wg-disappearances/methods-of-work) for the full text of the methods of work of the Working Group, as revised in 2014. The Working Group finalized a new revised version of its methods of work at its 129th session, in February 2023, and will be published in the near future.

1. Cases

As mentioned above, the Working Group's basic mandate is to assist relatives to clarify the fate and whereabouts of their disappeared loved ones. For this purpose, the Working Group endeavours to establish a channel of communication between the families and the States concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and the fate and whereabouts of the disappeared persons are clarified.

To this end, the Working Group receives and examines reports of disappearances submitted by relatives of disappeared persons or human rights organizations acting on their behalf. After determining whether those reports comply with a number of criteria,¹⁴ the Working Group transmits the cases to the Governments concerned, requesting them to carry out investigations and to inform the Working Group of the results.

The Working Group's role with respect to individual cases ends when the fate and whereabouts of the disappeared person have been clearly established as a result of investigations by the Government or the family, inquiries by NGOs, or verification by the Working Group or by human rights personnel from the United Nations or any other international organization operating in the field, irrespective of whether the person is alive or dead. The Working Group does not determine responsibility for specific cases of enforced disappearance or for other related human rights violations; its work in this respect is of a strictly humanitarian nature.

Historically, the Working Group operated on the basis of the definition of enforced disappearance contained in the preamble to the Declaration. It therefore considered cases only when the act in question was perpetrated by State actors or by private individuals or organized groups (for example, paramilitary groups)¹⁵ acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the State.

Accordingly, the Working Group does not usually intervene in cases that are attributed to persons or groups not acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, such as terrorist or insurgent movements fighting the Government on its own territory.

¹⁴ See the methods of work of the Working Group on Enforced or Involuntary Disappearances ([A/HRC/WGEID/102/2](#)), para. 14.

¹⁵ "Paramilitary groups" indicates organized groups of persons effectively armed, trained or supported by the State, often through the regular army.

In 2019, the Working Group reported that, for a number of years, it had been receiving information about increasing instances of abductions carried out by non-State actors, which may be tantamount to acts of enforced disappearance.¹⁶ Since then, in light of its humanitarian mandate and the fact that the victims of these acts do not have any remedy to address their plight, the Working Group has been documenting cases tantamount to enforced disappearances allegedly perpetrated by non-State actors exercising Government-like functions or de facto control over territory and population. These cases are transmitted to the non-State actors concerned with the request that they clarify the fate and whereabouts of the disappeared persons. In implementing this practice, the Working Group emphasizes that the cases transmitted to non-State actors do not in any way imply the expression of any opinion concerning the legal status of any territory, city or area, or of its authorities.

For the purposes of the definition of an act of enforced disappearance, the Working Group considers that the placement of the victim “outside the protection of the law” is a consequence of the crime. Therefore, the Working Group admits cases of enforced disappearance without requiring the source of the information to demonstrate, or even presume, that the intention of the perpetrator was indeed to place the victim outside the protection of the law. Further, the Working Group considers that an act of enforced disappearance may be initiated by an illegal detention or by an initially legal arrest or detention. That is to say, the protection of a victim from enforced disappearance must be effective upon the act of deprivation of liberty, whatever form such deprivation of liberty takes, and not be limited to cases of illegal deprivations of liberty.

The Working Group considers that a detention followed by an extrajudicial execution is an enforced disappearance proper, as long as such detention or deprivation of liberty was carried out by governmental agents of whatever branch or level, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, and, subsequent to the detention, or even after the execution was carried out, State officials refuse to disclose the fate or whereabouts of the persons concerned or refuse to acknowledge the act having been perpetrated at all.

¹⁶ [A/HRC/42/40](#), para. 94.

i. Admissibility

For a report of an enforced disappearance to be considered admissible by the Working Group, it must originate from the family or relatives of the disappeared person or from representatives of the family, Governments, intergovernmental organizations, humanitarian organizations, NGOs or other reliable sources. Such reports must be submitted in writing, with a clear indication of the identity of the sender (also referred to as the “source”). If the source is someone other than a family member, they must act with the explicit consent of the family to submit the case on its behalf and must be in a position to follow up with the relatives of the disappeared person. At the request of the source, and in an effort to protect those submitting a report, their identity is kept confidential.

In order to enable the Governments named in the reports to carry out meaningful investigations, the Working Group provides them with at least a minimum amount of basic information. In addition, the Working Group constantly urges the sources of reports to furnish as many details as possible on the identity of the disappeared person (including, if available, the person’s identity card number) and the circumstances of the disappearance. The following minimum elements¹⁷ are required:

- (a) Full name of the disappeared person and, if possible, the person’s date of birth, gender, nationality and occupation or profession;
- (b) Date of disappearance, i.e. day, month and year of arrest or abduction or day, month and year when the disappeared person was last seen. If the date of disappearance is not known, an approximation should be provided;
- (c) Place of arrest or abduction or where the disappeared person was last seen (at least an indication of the town or village);
- (d) Parties presumed to have carried out the arrest or abduction or to hold the disappeared person in unacknowledged detention;
- (e) Steps taken to determine the fate or whereabouts of the disappeared person, or at least an indication that efforts to use domestic remedies were frustrated or otherwise inconclusive.

¹⁷ The same elements must be disclosed when reporting a case attributable to non-State actors exercising government-like functions or de facto control over territory and population for the purposes of documentation by the Working Group.

Domestic remedies do not need to be exhausted before bringing a case to the Working Group's attention.

The submission of a case to the Working Group can be combined with the submission of an individual complaint to the Committee on Enforced Disappearances, the Human Rights Committee, the European Court of Human Rights, the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights or similar judicial or quasi-judicial international bodies. However, in accordance with article 30 of the Convention, the same case cannot be submitted to the Committee on Enforced Disappearances under its urgent procedure.

The form to submit individual cases to the Working Group (see annex III), while not compulsory, provides useful guidance about the information that should be included.

ii. Handling of cases

Newly reported cases of enforced disappearance are placed before the Working Group for detailed examination during its sessions. Those which fulfil the requirements as outlined above are transmitted to the Governments concerned, with a request to carry out search activities and investigations and to inform the Working Group of the results.¹⁸ Once transmitted, the cases are registered in a database and the country-specific statistics are reflected in the annual reports of the Working Group.

The Working Group handles the reports received under either the urgent procedure or the standard procedure.

The urgent procedure applies to cases of enforced disappearance that began within the three months prior to receipt of the report by the Working Group. These cases are transmitted to the State concerned through the most direct and rapid means. Cases that began prior to the three-month limit, but not more than one year before the date of their receipt by the secretariat, provided that they had a connection with a case that occurred within the

¹⁸ Pursuant to the practice developed since 2019, the procedures here described are followed also with regard to cases attributable to non-State actors exercising government-like functions or de facto control over territory and population that are reported to the Working Group. See "Reporting a disappearance to the Working Group", available at www.ohchr.org/en/special-procedures/wg-disappearances/reporting-disappearance-working-group.

three-month period, may be transmitted between sessions by letter upon authorization by the Chair-Rapporteur. The Working Group may decide to use the urgent procedure in situations other than those described.

The standard procedure applies to cases of enforced disappearance that are reported after three months. These cases are examined by the Working Group during its sessions, and they are communicated by letter from the Chair-Rapporteur to the State concerned with a request to carry out search activities and investigations to clarify the fate and whereabouts of the disappeared person and to inform the Working Group of the results.

For all cases, the Working Group highlights the condition of people in situations of vulnerability, including women, children, migrants, older persons, persons with disabilities, persons belonging to minorities, indigenous peoples and lesbian, gay, bisexual, transgender and intersex persons.

When the disappeared person is a child, the Working Group will withhold the child's name in public documents, unless the best interests of the child or the mandate of the Working Group require otherwise.

In the case of the enforced disappearance of a pregnant woman, the child presumed to have been born during the mother's captivity should be mentioned in the description of the mother's case. The case of the child should be treated separately at the request of the family or when witnesses have reported that the mother indeed gave birth to a child during detention.

Reports indicating that officials from one State were directly responsible for or involved in an enforced disappearance in another State, or that officials from more than one State were directly responsible for or involved in the disappearance, are to be communicated to all States concerned. The Working Group may send copies of these reports to other States if the circumstances so require.

The case is only counted in the statistics of the State in which the person was reportedly deprived of liberty or last seen.¹⁹ In exceptional circumstances, and if the humanitarian mandate of the Working Group so requires, cases may be counted in the statistics of a different State. However, the State under whose jurisdiction the enforced disappearance occurred or of which

¹⁹ Pursuant to the practice developed since 2019, the cases attributable and transmitted to non-State actors are mentioned in the post-sessional and annual reports of the Working Group. While the concerned States usually receive a copy of the communications, the cases are not counted in their statistics.

the victim is a national may be copied in communications so that it may also play a role, where possible, in gathering any information that could lead to the clarification of the case.

iii. Replies from Governments and clarification of cases

Any reply from the Government containing detailed information on the fate or whereabouts of a disappeared person²⁰ is transmitted to the source. If the source does not respond within six months of the date on which the Government's reply was communicated to it, or if it contests the Government's information on grounds that are considered unreasonable by the Working Group, the case is considered clarified and is accordingly listed under the heading "Cases clarified by the Government's response" in the statistical summary of the annual report. If the source contests the Government's information on reasonable grounds, the Government is so informed and is asked to comment.

If sources provide new or updated information on a case that was previously clarified, archived or discontinued, the Working Group may decide to return the case to the State and request it to comment. A case can also be reopened if the State's reply referred to a different person, does not correspond to the situation reported or has not reached the source within the six-month period. In such instances, the case in question will be relisted among those outstanding.

The Working Group considers cases outstanding until they have been (a) clarified, (b) archived or (c) discontinued:

- (a) A case may be clarified when the fate and whereabouts of the disappeared person are clearly established and detailed information is transmitted as a result of an independent, impartial, thorough and effective investigation by the State, inquiries by non-governmental organizations missions by the Working Group or by human rights personnel from the United Nations or any other international organization operating in the field, or as a result of a search conducted by the family, irrespective of whether the person is alive or dead. The case can also be clarified if the State concerned, after conducting an independent, impartial, thorough and effective investigation and search

²⁰ Pursuant to the practice developed since 2019, the procedures here described are followed also with regard to cases attributable to non-State actors exercising government-like functions or de facto control over territory and population that are reported to the Working Group.

- activities, provides reliable information demonstrating that there are no possible means to establish the whereabouts of the disappeared person, but produces detailed information on the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person.
- (b) A case may be archived when the competent authority specified in the relevant national law issues a declaration of absence as a result of enforced disappearance and the relatives or other interested parties have manifested, freely and indisputably, their desire not to pursue the case any further. These conditions should at all times respect the rights to truth, justice and integral reparation.
 - (c) In exceptional circumstances, the Working Group may discontinue the consideration of cases where the families have manifested, freely and indisputably, their desire not to pursue the case any further, or when the source is no longer in existence or is unable to follow up the case, and the steps taken by the Working Group to establish communication with other sources have proven unsuccessful.

Following each session, the Working Group informs Governments, in writing, of decisions taken with regard to enforced disappearances in their country. It reminds Governments, at least once a year, of the total number of transmitted cases that have not yet been clarified. Three times a year it reminds Governments of cases sent pursuant to the urgent procedure and yet to be clarified. At any time during the year any Government may request, in writing, summaries of cases that the Working Group has transmitted to it.

Any additional substantive information which the source submits on an outstanding case is placed before the Working Group and, following its approval, transmitted to the Government concerned.

When the Working Group receives reports of enforced disappearances in which the victim has already been found dead, the Working Group does not admit the case for transmission to the respective Government, since it would be a case clarified *ab initio*. However, this does not mean that such cases would not fall within the definition of enforced disappearance included in the Declaration, if (i) the deprivation of liberty took place against the will of the person concerned, (ii) government officials were involved, at least indirectly by acquiescence, and (iii) State officials thereafter refused to acknowledge the act or to disclose the fate and whereabouts of the person concerned. Such reports may be transmitted to the Governments in question as general allegations, but not through the urgent or standard procedure.

The fact that the Working Group declares a case clarified, archived or discontinued does not exonerate the Government from further investigating the case, bringing the perpetrators to justice, providing adequate reparation to the family of the disappeared person and taking all measures necessary to prevent similar cases in the future.

While the Working Group's mandate does not extend beyond the stage at which a disappeared person's fate and whereabouts are made known, other human rights procedures of the United Nations can take up where the Working Group leaves off. If the reply from the Government concerned clearly indicates that the disappeared person has been found dead, tortured, in arbitrary but acknowledged detention, or to be a victim of other human rights violations for which government officials or groups or individuals linked to them are allegedly responsible, the case is brought to the attention of the appropriate mechanism or body.

Since its inception, the Working Group has dealt with almost 60,000 individual cases pertaining to 110 countries.²¹ For reasons well beyond the scope of the Working Group, only a tiny fraction of those cases – yet more than 10,000 – have been clarified. In addition, the extent to which the actions of the Working Group have helped to prevent the occurrence of additional cases of enforced disappearance cannot be quantified.

Moreover, the mechanism of the Working Group should be seen as a reflection of international concern and action. It forms part of a long-term process aimed at the elimination of major human rights violations, including through the widespread raising of public awareness about human rights-related issues and the provision of advisory services and technical assistance to Governments for the promotion and protection of human rights.

2. Urgent appeals and other communications

When credible allegations are received that a person has been arrested, detained, abducted or otherwise deprived of their liberty and has been forcibly disappeared or is at risk of being disappeared, the Working Group will transmit those allegations to the State concerned by the most direct and rapid means. This is a procedure common to the other special procedures

²¹ At the time of publication of this document the Working Group has documented and transmitted 47 cases to six non-State actors exercising government-like functions or de facto control over territory and population. To date, four cases have been clarified.

of the Human Rights Council, and these communications are usually transmitted by the Working Group jointly with other mandates. The Working Group will request the Government to carry out investigations to clarify the fate and whereabouts of the person or persons concerned and to inform the Working Group about the results. Depending on the consent of the source, the urgent appeal may become a standard or urgent case as appropriate.

Urgent appeals are reflected in post-sessional documents and in annual reports but are not registered and opened as cases of the Working Group, nor are they counted in the country-specific statistics. Replies received from States concerning urgent appeals are summarized in post-sessional documents and annual reports and, where pertinent, the information provided by the States is forwarded to the sources of the urgent appeal, who are invited to make observations thereon or to provide additional details.

Upon receiving credible information that a person has been deprived of liberty and is at risk of being forcibly disappeared, the Working Group may decide to issue a joint communication with other relevant special procedures (such as the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions or the Working Group on Arbitrary Detention).

When credible and detailed allegations are received that a State is practising enforced disappearances, the Working Group may decide to intervene. The Working Group may also communicate with States and other sources when credible and detailed allegations are received that indicate that a State is considering the adoption of measures (such as legislative or policy measures) that could create obstacles in the implementation of the Declaration.

When the Working Group considers it appropriate, it may require from the State, the original source or any other sources any relevant information on the matter that would permit it to assess the situation and the effectiveness of the measures taken by the State in response to its communications. The Working Group may adopt any other follow-up measures that it considers appropriate.

3. Prompt intervention letters

The Working Group transmits to the Government concerned information concerning cases of intimidation, persecution or reprisal against relatives

of disappeared persons, witnesses to disappearances or their families, members of organizations of relatives or other NGOs, human rights defenders or individuals concerned with disappearances. Upon transmitting this information, the Working Group calls on the Government concerned to take steps to protect all the fundamental rights of the persons affected. In light of the urgent nature of these communications, they are transmitted to the State concerned by the most direct and rapid means, including between sessions.

Prompt intervention letters and the corresponding replies received from States are summarized in post-sessional documents and annual reports of the Working Group.

4. General allegations

The Working Group regularly transmits to the Governments concerned a summary of allegations (also called general allegations)²² that have been received or gathered from reliable sources such as relatives of disappeared persons and NGOs with regard to obstacles encountered in the implementation of the Declaration, and it requests the State to comment thereon if it so wishes.

General allegations and the corresponding States' replies are reflected in the post-sessional documents and in the annual report of the Working Group, as well as on its website.

5. Country visits

These visits are intended to enhance the dialogue between the authorities most directly concerned, the families or their representatives and the Working Group, and to assist in the clarification of the reported enforced disappearances. During its visits, the Working Group examines the actions taken by States to prevent, investigate, punish and eradicate enforced disappearance, as well as the programmes and measures adopted to implement the Declaration. Like the other special procedures of the Human Rights Council, the Working Group is entitled to make two country visits per year.

Country visits can only be carried out with the prior agreement of the relevant Government. Some countries have issued standing invitations, which means

²² See www.ohchr.org/en/special-procedures/wg-disappearances/general-allegations.

that they are, in principle, prepared to receive a visit from any special procedure mandate holder, including the Working Group.²³ Country visits are guided by the provisions contained in the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council²⁴ and the terms of reference for country visits by the special procedures.²⁵

Every time it carries out a visit, the Working Group presents a report of its findings and recommendations to the Human Rights Council. The conclusions contained in the report are aimed at assisting Governments to identify factors which may contribute to enforced disappearances and to provide practical solutions in order to implement international standards. A few (usually four) years after issuing the report on its visit, the Working Group seeks information from the State concerned on the steps taken to implement the recommendations contained in the report or on the constraints which may have prevented their implementation. Information is also received from civil society and other sources. Based on the information gathered, the Working Group issues a follow-up report on the visit and, with the prior agreement of the Government concerned, it may also carry out follow-up visits.²⁶

In the context of its visits, the Working Group welcomes information from relatives, civil society organizations and other stakeholders.²⁷

6. Referral

If the Working Group receives claims of practices of enforced disappearance that may amount to crimes against humanity (that is, they have been perpetrated in the context of a widespread or systematic attack against any civilian population), it will evaluate these claims and, if appropriate, refer them to the competent authorities, be they international, regional, subregional or domestic.

²³ The updated list of countries that have issued a standing invitation is available at <https://spinternet.ohchr.org/StandingInvitations.aspx?lang=en>.

²⁴ Human Rights Council resolution 5/2.

²⁵ Available at www.ohchr.org/en/special-procedures-human-rights-council/terms-reference-country-visits-special-procedures.

²⁶ Information related to country and follow-up visits is available at www.ohchr.org/en/special-procedures/wg-disappearances/country-visits.

²⁷ See "Submitting information to the WGEID in relation to official country visits". Available at www.ohchr.org/en/special-procedures/wg-disappearances/submitting-information-wgeid-relation-official-country-visits.

7. Protection from acts of intimidation and reprisals for cooperating with the Working Group

Besides the prompt intervention letters mechanism (see above), the Working Group can take action in connection with acts of intimidation or reprisals against relatives of disappeared persons and private individuals or groups who seek to cooperate or have cooperated with United Nations human rights bodies, or who have provided testimony or information to them, as well as persons who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms or persons who have provided legal assistance to others for that purpose.

In general, special procedures, including the Working Group, rely on a variety of actions, confidential and public, for addressing cases of intimidation and reprisals affecting people who have cooperated with them. These include:

- Raising cases of reprisals during meetings with government officials
- Sending communications to States and other stakeholders
- Raising cases of reprisals with United Nations representatives in the field and at Headquarters, including the Secretary-General, the United Nations High Commissioner for Human Rights, the Assistant Secretary-General and the President of the Human Rights Council
- Raising cases of reprisals in public statements, press releases or reports to the Human Rights Council or the General Assembly, or during their interactive dialogues with those two bodies.

A dedicated focal point on reprisals appointed within the Coordination Committee of Special Procedures facilitates coordinated responses. When necessary, special procedures seek cooperation with other human rights mechanisms at the international or regional level, including through cross-referencing.

The annual report of the special procedures of the Human Rights Council contains a section on reprisals, which reflects the main concerns of, and actions taken by, special procedures during the reporting period.²⁸

²⁸ See also "Cooperation with the United Nations, its representatives and mechanisms in the field of human rights: Report of the Secretary-General" (A/HRC/51/47), pursuant to Human Rights Council resolution 12/2.

V. The International Convention for the Protection of All Persons from Enforced Disappearance and the Committee on Enforced Disappearances

A. International Convention for the Protection of all Persons from Enforced Disappearance

In 2001, the Commission on Human Rights requested an independent expert to examine the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance and to identify gaps in order to ensure full protection from enforced disappearance.²⁹

In his report, the independent expert concluded that the right not to be subjected to enforced disappearance was not established in any universal treaty and that there were many gaps regarding measures of prevention and effective remedies and reparation for victims. As a result, he indicated the need to adopt a dedicated universal legally binding instrument.

Following that report, the Commission on Human Rights decided in 2003 to draft such a treaty. Over 70 States, as well as numerous NGOs, associations of families of disappeared persons and experts participated in the three-year negotiation process. The International Convention for the Protection of All Persons from Enforced Disappearance (see [annex II](#)) was adopted by the General Assembly in December 2006 and was opened for signature in Paris on 6 February 2007. It entered into force on 23 December 2010, after 20 countries ratified or acceded to it.³⁰

The Convention is the first universally legally binding human rights instrument concerning enforced disappearances. It spells out in detail States parties' obligations and victims' rights in terms of the prevention and eradication of enforced disappearances and, as an international human rights treaty law, it becomes legally binding upon States that ratify or accede to it – the States parties.

²⁹ See Commission on Human Rights, Report submitted by Manfred Nowak (E/CN.4/2002/71), 8 January 2002.

³⁰ The updated signature and ratification status is available at <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&msgid=IV-16&chapter=4&clang=en>.

The Convention contains 45 articles, divided into three parts:

- Part I contains the substantive provisions and focuses primarily on the obligations of States parties to prevent and punish crimes of enforced disappearance and on the corresponding victims' rights.
- Part II establishes the Committee on Enforced Disappearances and explains its functions.
- Part III contains the formal requirements regarding signature, entry into force, amendments and the relationship between the Convention and international humanitarian law. It notes that any provisions which are more conducive to the protection from enforced disappearance found in international or domestic laws should be applied.

The Convention represents significant progress in international law, in particular since it affirms that the human right not to be subjected to enforced disappearance is non-derogable.³¹

Pursuant to the Convention, States parties must codify enforced disappearance as an autonomous offence under their domestic criminal law, punishable by appropriate penalties that are commensurate with its extreme seriousness.

The Convention specifies that the widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined by international law and that it must be recognized as such by States parties.

The Convention acknowledges the continuous nature of the offence of enforced disappearance and stipulates that States parties that apply statutes of limitations for criminal proceedings must ensure that they are substantial and do not commence running until the offence ceases (i.e. when the fate and whereabouts of the disappeared person are established with certainty).

Under the Convention, States parties are required to hold criminally responsible the perpetrators, as well as those who order, solicit or induce, attempt to commit, are accomplices to or participate in an enforced disappearance. Article 6 of the Convention regulates superior responsibility and due obedience, namely the responsibility of the authorities that give an order to disappear a person or group of persons.

³¹ A non-derogable right is a right that may not be restricted or suspended, even in times of war or other public emergency. This is the case, for instance, of the right to life and the prohibition of torture and other cruel, inhuman or degrading treatment.

The Convention establishes that, when an alleged perpetrator of an act of enforced disappearance is present in any territory under the jurisdiction of a State party, this State shall take the measures that are necessary to establish its jurisdiction over the offence, unless it extradites or surrenders the offender to another State in accordance with its international obligations or surrenders the offender to an international criminal tribunal whose jurisdiction it has recognized.

States parties to the Convention must ensure that allegations of enforced disappearances are subjected to a prompt, thorough, independent, impartial and effective investigation.

Article 3 of the Convention acknowledges that “persons or groups of persons acting without the authorization, support or acquiescence of the State” (i.e. non-State actors) might be involved in the commission of acts of the same nature as those referred to in article 2. In such cases, the Convention requires States parties to investigate the acts committed and to bring those responsible to justice.

States parties are required to protect against all ill-treatment or intimidation complainants, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation.

Under the Convention, States parties must afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings on enforced disappearance. They must cooperate with a view to assisting and searching for victims of enforced disappearance and, in the event of their death, exhuming and identifying them and returning their remains.

Among the measures intended to prevent enforced disappearances, the Convention includes the express prohibition of secret detention and calls on States parties to guarantee minimum legal standards around the deprivation of liberty. In particular, States must establish and maintain official registers of persons deprived of liberty, with the minimum of information specified in the Convention, and they must guarantee that all persons deprived of liberty are able to communicate with their family, counsel or any other person of their choice.

The Convention includes the principle of non-refoulement: it stipulates that no State party shall expel, return, surrender or extradite a person to a State where there are substantial grounds for believing that the person would be in danger of being forcibly disappeared. The Convention specifies

that, to carry out such an assessment, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

States parties are requested to train law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved with the treatment of persons deprived of their liberty on the contents of the Convention.

One of the major developments found in the Convention is article 24, which defines as “victim” not only the disappeared person but also any individuals who have suffered harm as the direct result of an enforced disappearance, such as family members. Accordingly, article 24 stipulates victims’ rights and the corresponding States parties’ obligations, namely the right to know the truth, the obligation to search for disappeared persons, the right to compensation and other measures of reparation, including restitution, rehabilitation, satisfaction and guarantees of non-repetition, the obligation to regulate the legal situation of disappeared persons, especially with regard to social welfare, financial matters, family law and property rights, and the obligation to guarantee the right to form and participate freely in organizations concerned with attempting to establish the circumstances of enforced disappearances and assisting victims.

The Convention is the first international human rights treaty that explicitly sets forth the right to know the truth about human rights violations, and more specifically regarding enforced disappearances, their circumstances, the progress and results of the search and investigation, and the fate of the disappeared person.

The final provision in part I of the Convention concerns the wrongful removal of children who are subjected to enforced disappearance, children whose parents are subjected to enforced disappearance and children who are born during the captivity of a mother subjected to enforced disappearance. The Convention requires States parties to prevent and punish such practices under their criminal law, as well as the falsification, concealment or destruction of documents attesting to the true identity of disappeared children subjected to wrongful removal. States parties must assist one another in searching for, identifying and locating disappeared children.

Moreover, bearing in mind the best interests of the children, States parties must have in place legal procedures to review adoptions or placement procedures and, where appropriate, to annul adoptions or placements that originated in an enforced disappearance.

B. Committee on Enforced Disappearances

The Committee on Enforced Disappearances is the mechanism in charge of monitoring how the States parties apply the International Convention for the Protection of all Persons against Enforced Disappearance (see arts. 26 to 36 of the Convention).

The Committee is one of the 10 treaty bodies mandated to monitor the implementation of the United Nations human rights treaties.³² These organs are competent solely with regard to States that have ratified or acceded to the treaty of reference – the States parties.

The Committee is composed of 10 independent experts, who serve in their personal capacity. They are elected by States parties to the Convention for a term of four years and may be re-elected once.

The Committee holds two sessions per year in Geneva and carries out its functions following the rules of procedure³³ and working methods³⁴ it has established.

The Committee discharges its mandate through the following functions:

1. Examination of States parties' reports (art. 29);
2. Urgent actions (art. 30);
3. Individual communications (art. 31);
4. Inter-State communications (art. 32);
5. Country visits (art. 33);
6. Referral of widespread or systematic practice of enforced disappearance to the General Assembly (art. 34);
7. General comments (rule 56 of the Committee's rules of procedure).

³² See www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx.

³³ See CED/C/1.

³⁴ See www.ohchr.org/EN/HRBodies/CED/Pages/WorkingMethods.aspx.

All the States that have ratified or acceded to the Convention are subjected to the functions of the Committee established under articles 29, 30, 33 and 34 (i.e. examination of reports, urgent actions, country visits and referral to the General Assembly of widespread or systematic enforced disappearances).

However, States parties to the Convention do not automatically accept the competence of the Committee to receive and consider individual and inter-State communications pursuant to articles 31 and 32. This requires a separate declaration that can be made at the time of ratification or accession, or any time afterwards.

Article 35 of the Convention establishes that the Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of the Convention. The Committee adopted a statement³⁵ to clarify the content of this provision. In summary, the Committee held that, in the context of the reporting process (art. 29), it can take information related to enforced disappearances that commenced prior to the entry into force of the Convention as a means to understand the challenges of the present.

The Committee also held that it cannot adjudicate individual cases concerning enforced disappearances as such that commenced before the entry into force of the Convention. In other words, the Committee cannot activate the urgent action procedure (art. 30) for a disappearance that was initiated before the entry into force of the Convention in the State party concerned. However, for individual communications (art. 31), even if the Committee is unable to address the disappearance as such, it may still consider that it has jurisdiction to examine facts related to the disappearance that occurred after the entry into force of the Convention, such as matters relating to the processes of search or investigation.

The Committee has adopted substantive statements³⁶ on issues such as enforced disappearance and military jurisdiction, and on the report of the United Nations High Commissioner for Human Rights on strengthening the United Nations human rights treaty body system.

In 2019, the Committee adopted the Guiding Principles for the Search for Disappeared Persons, which consolidate good practices in searching

³⁵ Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCED%2FSUS%2F7250&lang=en.

³⁶ Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?lang=en&TreatyID=2&DocTypeID=9&DocTypeID=68.

effectively for disappeared persons, in accordance with States' obligation to search.³⁷

In 2022, the Committee adopted a joint statement on illegal intercountry adoptions with the Working Group, the Committee on the Rights of the Child and three special procedure mandate holders.³⁸

The Committee is currently drafting its first general comment, on enforced disappearances in the context of migration.

The Committee reports annually on its activities to the States parties and to the General Assembly.

1. Examination of States parties' reports under article 29

Under article 29 (1) of the Convention, each State party shall submit to the Committee a report on the measures taken to give effect to its obligations under the Convention within two years of the entry into force of the Convention for the State concerned.

The reporting procedure of the Committee applies automatically to all States parties. It is not a confrontational process, but rather constitutes an opportunity for States to make an interinstitutional assessment of their successes and challenges in relation to enforced disappearances, and to interact with a Committee of Experts on ways to apply the Convention. It also provides a unique space to give voice to the victims, civil society organizations and other actors, and to take their concerns and proposals into account.

The procedure follows various steps:

- (i) Receipt of the report from the State party concerned under article 29 (1);
- (ii) Drafting by the Committee of a list of issues in relation to the submitted report to request clarification or updated information;
- (iii) Reply of the State party to these questions within a time limit fixed by the Committee;

³⁷ CED/C/7; see annex VI.

³⁸ The three special procedure mandate holders were the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, and the Special Rapporteur on trafficking in persons, especially women and children. The joint statement is available at www.ohchr.org/sites/default/files/documents/hrbodies/ced/2022-09-29/JointstatementICA_HR_28September2022.pdf.

- (iv) Consideration of the report and of the replies to the list of issues on the occasion of an interactive dialogue between the authorities of the State party and the plenary of the Committee. Such dialogues are held in public. They enable the Committee to raise questions with the competent authorities to further understand the level of implementation of the Convention in the State party.

If a State party does not submit its report within the deadline of two years after the ratification of the Convention, the Committee sends a reminder. States parties that have still not complied with their reporting obligations five years after the deadline become subject to the Committee's procedure that permits the consideration of a State party in the absence of a report.³⁹

After the constructive dialogue that is held on the basis of the report or in the absence of a report, the Committee adopts concluding observations that contain its findings and recommendations. These recommendations are aimed at providing the State with guidance as to the measures it should adopt to eradicate and prevent enforced disappearances and to ensure that victims have access to truth, justice, reparation and support, in compliance with the Convention.

The concluding observations are shared with the State party and are posted on the Committee's web page in the six official languages of the United Nations. They are also included in the annual report of the Committee to the General Assembly.

In its concluding observations on a State party's report, the Committee informs the State party about the next steps of the procedure. It can request the State party to provide a follow-up report on a limited number of issues of particular concern within one year. In that connection, the State party must submit a follow-up report, in which it describes the measures taken to implement the recommendations selected by the Committee. The follow-up rapporteur appointed by the Committee analyses the report together with the information received from other stakeholders and presents an analysis to the Committee. On this basis, the plenary of the Committee evaluates the degree of compliance of the State party with its recommendations, and it then sends a note verbale to the State, indicating the measures that should be adopted to implement the recommendations of reference.

³⁹ In 2019, the Committee adopted the "Internal guidelines for the review of States in the absence of a report due under article 29 (1) of the Convention". Available at www.ohchr.org/EN/HRBodies/CED/Pages/Reporting-guidelines.aspx.

In all cases, the Committee requests the State to provide a report about the measures taken to implement all or some of its recommendations. This is done under the procedure of article 29 (4) of the Convention, which concerns a report on additional information.

Unlike other treaty bodies, the Committee does not have a system of periodic reports. Instead, it can request the State party to provide additional information on the implementation of its recommendations and of the Convention, as described above. This procedure is aimed at ensuring follow-up to the measures taken by States parties to implement the Committee's recommendations, the identification of any new issues that arise, a focus on crisis situations and a fluid interaction with States parties and other actors in the provision of guidance and expertise on the implementation of the Convention. With the aim of thoroughly monitoring the implementation of the Committee's recommendations and of the Convention by all States parties, the Committee is implementing new modalities for this procedure, which is being implemented progressively.

The Committee carries out its review of additional information reports under two modalities:

- (i) Frequent reviews of additional information, focusing on prioritized issues, every two or four years depending on the situation at stake, in a space of interaction of three hours per State party;
- (ii) Full reviews every eight years during dialogues of six hours, this longer duration being on account of the longer periodicity of the examinations.

At all stages of the reporting procedure, the Committee greatly welcomes information and documentation from victims, civil society organizations, national human rights institutions and other stakeholders, as well as contributions from the regional mechanisms, entities of the United Nations system and other sources. During the sessions, victims, civil society organizations and representatives of national human rights institutions have the opportunity to address the Committee during formal and informal confidential briefings, be this in person or online. The deadlines and modalities of such interactions are posted on the web page of the Committee a few months before each session.⁴⁰

⁴⁰ For sessions of the Committee on Enforced Disappearances, see https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/SessionsList.aspx?Treaty=CED.

In all sessions, victims, civil society organizations and representatives of national human rights institutions are welcome to attend all public meetings, including the dialogues with States parties, as observers. These meetings are webcast on UNTV via the following link: <https://media.un.org/en/webtv>.

2. Urgent action procedure under article 30

The urgent actions of the Committee are aimed at supporting the urgent location of disappeared persons. The Committee on Enforced Disappearances is the only treaty body to have such a procedure. It was designed bearing in mind the need to intervene as quickly as possible after a person is disappeared to search for, locate and establish the fate of the disappeared person, and to prevent other human rights violations.

The urgent action procedure applies to all States parties to the Convention, without the need for any separate declaration of acceptance, regarding enforced disappearances which commenced after the entry into force of the Convention for the State party concerned (after ratification or accession).

To activate the urgent action procedure, a request that a disappeared person must be sought and found can be submitted to the Committee, as a matter of urgency, by relatives of the disappeared person or their legal representatives or counsel, any person authorized by them, or any other person having a legitimate interest. The source of the information or the identity of the author of the request always remains confidential.

Article 30 (3) of the Convention specifies that, in the context of the urgent action procedure, the Committee may request the State party to take all necessary measures, including interim measures (see below), to locate and protect the disappeared person, in accordance with the Convention, and to inform the Committee, within a specified period of time, of measures taken in that connection, bearing in mind the urgency of the situation.

i. Requirements for an urgent action to be registered by the Committee

Pursuant to article 30 (2) of the Convention, in order to be admissible:

- (a) The request must not be manifestly unfounded;
- (b) The request must not constitute an abuse of the right of submission of such requests, and it must not be incompatible with the provisions of the Convention;

- (c) The same matter (i.e. the same author, the same claims and the same facts) must not be in the process of being examined under another procedure of international investigation or settlement of a similar nature (e.g. consideration by the Working Group);
- (d) It is not necessary to have exhausted domestic remedies. However, where such a possibility exists, the disappearance must at least have been reported to one of the bodies of the State party concerned that has competence to search for a disappeared person or investigate disappearances. If the authors of the request consider that such a possibility does not exist or is unavailable in practice, they must explain why (e.g. a risk of reprisals resulting from the submission or the absence of competent domestic authorities).

Moreover:

- (a) The request for urgent action must concern an enforced disappearance that occurred in a State party to the Convention, the disappearance of persons who have been returned by a State party to a non-State party, the disappearance of nationals of a State party outside its territory, pursuant to the obligation of non-refoulement, the obligation of the country of origin to exercise jurisdiction over the offence of enforced disappearance of disappeared nationals, and the obligation of cooperation by States parties;
- (b) The enforced disappearance referred to in the request for urgent action must have been initiated after the entry into force of the Convention in the State party concerned.

Whenever the case of enforced disappearance relates to a State party to the Convention, that case should not be simultaneously registered by the Working Group and the Committee.

In other words:

- (a) If the enforced disappearance concerned commenced prior to the entry into force of the Convention or if it occurred in the territory of a non-State party to the Convention, only the Working Group is competent;
- (b) Taking into account the legal basis of the urgent action procedure of the Committee, if the case commenced after the entry into force of the Convention in a State party to the Convention, or if the disappeared person is a national of a State party, the urgent action should be submitted to the Committee. However, as a rule, the Committee cannot register an urgent action for a case that has already been registered by the Working Group;

- (c) If a person submits a case to the Working Group that commenced after the entry into force of the Convention, the Working Group consults with the source (for example, the relatives of the disappeared person or their representatives) and, if they agree, it refers the case to the Committee for action. The two mechanisms are in constant communication to coordinate their interventions and facilitate the transmission of information whenever necessary to ensure the immediate treatment of urgent action requests.

Urgent action requests to the Committee must be submitted in writing and must contain a detailed description of the facts, as well as information on:

- (a) The identity of the disappeared person;
- (b) The date and circumstances of the disappearance and, if available, information on the alleged perpetrators;⁴¹
- (c) The steps that have been taken to report the disappearance to the competent authorities of the State and the reply they have provided;
- (d) The reasons why any interim measures that have been requested are considered necessary.

ii. Registration of urgent actions

A request for urgent action that complies with the admissibility criteria is usually registered within 48 hours of its receipt through its transmission to the State party concerned. In the registration note, the Committee requests the State party to take immediate measures to search for and locate the disappeared person. It also requests the State party to provide, within a deadline of two weeks to one month, depending on the time when the enforced disappearance took place, information on the measures taken to locate and protect the disappeared person, to investigate the enforced disappearance, to identify the perpetrators and to ensure the participation of family members in the search and investigation processes. The registration note may also include a request for interim measures, as stated above.

⁴¹ In cases where it is not clear who the perpetrators of an enforced disappearance are, the urgent action request will be registered when (a) the possible involvement of non-State actors – without support or acquiescence – is a mere hypothesis that can be neither confirmed nor dismissed without a thorough investigation by the competent authorities; or (b) the disappeared person has experienced conflict or tension or has a relationship with State actors which, considering the context of the events, would suggest that an enforced disappearance is a possibility. If the information provided by the parties in the course of the urgent action procedure shows that there is no involvement of agents of the State, including through support or acquiescence, the Committee will close the urgent action.

iii. Interim measures

In the context of urgent actions, the Committee can request the State party to adopt interim measures to protect persons or to protect elements related to the case against a risk of irreparable damage. Thus, a request for interim measures can be submitted for the family or relatives of the disappeared person and their representatives or counsel, the author of the request for urgent action, witnesses to the enforced disappearance, all persons participating in related searches or investigations, or any element or pieces of evidence that could help to locate the disappeared person. The Committee frequently requests the adoption of interim measures:

- To protect relatives of a disappeared person against threats, acts of intimidation or reprisals
- To protect elements or pieces of evidence related to an alleged enforced disappearance from destruction or mismanagement.

A request for interim measures must specify:

- The person(s) for whom interim measures of protection are being requested (their name(s) and connection with the case in question)
- A description of the risk of irreparable harm faced by the person(s) (for example, acts of intimidation or reprisal)
- A description of the risk of irreparable damage to any elements or pieces of evidence relating to the case that could aid efforts to locate the disappeared person(s)
- Protection measures that should be taken by the State party to avoid the risk described.

Requests for interim measures can be made in the initial request for urgent action, or at any time after the submission of such request, while the procedure is ongoing.

iv. Follow-up to urgent actions

Throughout the procedure, the Committee is in constant contact with States parties through their permanent missions and relevant government and judicial authorities, and with the authors of requests for urgent action, through notes verbales, letters, meetings and telephone calls.

The objective is to ensure a thorough follow-up to the search and investigation process and to monitor the situation of the victims.

In this context, the Committee acts as a point of contact between the parties involved. Upon registration of the urgent action request, the Committee sends a letter to the authors to inform them about the measures requested to the State party. Once the State party sends a reply to the Committee, the Committee transfers it to the authors of the urgent action request. The authors then have the opportunity to provide comments in response to that reply and to share any new information they consider of relevance.

Upon analysis of the State party's reply and the authors' comments, the Committee sends a follow-up note to the State party, raising its concerns and providing follow-up recommendations. The State party is then given a new one-month deadline to send a follow-up reply.

v. Interaction with the authors of the urgent action request

For the urgent action procedure to progress, it is essential that the authors of the request remain in contact with the Committee and provide timely and detailed replies to the extent possible. Authors of urgent action requests should not hesitate to submit any update related to their case (any information about the procedures of search or investigation, or about protection measures that may be in force). If the authors of the urgent action fail to reply to the Committee, the secretariat sends them reminders. If no reply is received after three reminders, the secretariat will do its utmost to locate the authors and facilitate interaction with them. However, in such cases, the Committee may decide to suspend the case until additional information is submitted.

vi. Contact with the State party

In response to the Committee's requests, the State party concerned shall submit any written explanations, statements or documents which may help to clarify the fate and whereabouts of the disappeared person, as well as any information related to the search for the disappeared person and the investigation of the person's disappearance.

The State party is regularly informed about any new information received. If the State party does not reply, reminders are sent until a reply is received. After three reminders, the Committee informs the State party that it may report its lack of collaboration to the General Assembly. Such reporting is made public in the Committee's sessional reports on urgent actions and in the Committee's annual report to the General Assembly.

vii. Publicity of the procedure

The notes verbales sent to States parties and the Committee's exchanges with the authors of requests for urgent action are confidential.

However, at each session, the Committee adopts a report on urgent actions, which takes stock of the urgent actions registered since the Committee's previous session and describes the main trends observed and the adopted jurisprudence.⁴²

The Committee continues its efforts to work with the State party concerned for as long as the person sought remains disappeared. The Committee will consider that the person has been located only if the information received in that regard is fully confirmed by the authors of the urgent action request.

With this rule in mind, urgent actions are considered:

- (a) Open, when the disappeared person remains disappeared or has been located but the persons who have been granted interim measures in the context of the urgent action still require measures of protection. In such cases, the Committee gives a follow-up to the implementation of the interim measures on the basis of the information provided by the authors and the State party;
- (b) Discontinued, when the disappeared person has been located but is still detained. This is because the person in question is particularly vulnerable to being subjected to a further enforced disappearance and to being placed outside the protection of the law;
- (c) Closed, when the disappeared person has been found at liberty, has been located and released, or has been found dead, and this information is fully confirmed;
- (d) Suspended, when the author of the request for urgent action has lost contact with the family members of the disappeared person and can no longer provide follow-up information. A suspended urgent action may be reopened if the author informs the Committee that he or she has resumed contact with the family members.

Since its creation up to 21 March 2023, the Committee has registered more than 1,575 requests for urgent action pertaining to 30 countries. As at the same date, 434 disappeared persons on whose behalf an urgent action request had been registered had been located, 406 of them alive. This figure

⁴² See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?lang=en&TreatyID=2&DocTypeID=167.

reflects the critical importance and concrete impact of this mechanism on the lives of victims and families. Authorities and victims have signalled the relevance of the procedure, which sheds light on cases of enforced disappearance by bringing them to the attention of competent authorities and providing guidance on the actions to be taken to search for disappeared persons and investigate disappearances. It is worth highlighting the landmark judgment by the Supreme Court of Mexico that recognizes that the urgent actions of the Committee are legally binding for all institutions of that State.⁴³ In other terms, according to the Supreme Court’s decision, all State institutions in Mexico are obliged to take all possible measures to implement the recommendations transmitted to the State party in the context of the urgent action procedure.

The form to submit an urgent action request to the Committee (see [annex IV](#)), while not compulsory, provides guidance about the information that should be included.

3. Individual communications under article 31

Pursuant to article 31 of the Convention, any individual claiming to be a victim of a violation of her or his rights protected under the Convention by a State party can submit an individual complaint to the Committee (also called a “communication”).

This procedure applies only to States parties that have made a declaration under article 31 accepting the Committee’s competence.⁴⁴

When submitting an individual complaint, or at any stage of the procedure, the complainant may ask the Committee to issue a request for interim measures whenever he or she considers that the victim of the enforced disappearance is at risk of irreparable harm. The complainant can also request protection measures aimed at protecting the life or integrity of the complainant, witnesses, relatives of the disappeared person, their defence counsel, or any persons participating in the search and investigation processes who are at actual or potential risk. Protection measures can also be requested for the protection of any evidence that may be of relevance for the case.

⁴³ Supreme Court of Justice of Mexico, Judgment No. 1077/2019, 16 June 2021.

⁴⁴ To find out if a State has made such a declaration, see <https://treaties.un.org>.

A decision to request the State party to adopt interim or protection measures does not have any implication as to the admissibility of the case. In other words, it is not because the Committee grants interim measures that it will necessarily consider that the complaint is admissible. A request for interim or protection measures cannot be lodged independently but will always need to be submitted together with an individual communication and can only be granted if the communication is registered. The Committee may decide to lift a request for interim measures at any stage of the procedure if the risk has ceased, based on the information provided by the parties.

i. Admissibility

To be admissible:

- The individual complaint must not be anonymous
- The alleged victim must be subject to the jurisdiction of a State party to the Convention
- The individual complaint must not constitute an abuse of the right of submission of such communications, and it must not be incompatible with the provisions of the Convention
- The same matter (i.e. the same author, the same facts and the same substantive rights) must not be in the process of being examined under another procedure of international investigation or settlement of a similar nature (e.g. consideration by the Human Rights Committee, the Committee against Torture or regional human rights mechanisms such as the Inter-American Commission on Human Rights, the European Court of Human Rights, the African Commission on Human and Peoples' Rights or the African Court on Human and Peoples' Rights). This does not include complaints submitted under the Human Rights Council's complaint procedure or complaints submitted to special rapporteurs or working groups of the Human Rights Council (including the Working Group on Enforced or Involuntary Disappearances)
- All internal remedies must have been exhausted or it must be clearly demonstrated that the application of domestic remedies would be unreasonably prolonged or otherwise ineffective, unavailable or inaccessible.

The Committee held that, according to article 35 of the Convention, it cannot adjudicate individual communications concerning enforced disappearances as such that commenced before the entry into force of the Convention for the State party concerned. However, it can still consider

that it has jurisdiction to examine facts related to a disappearance that arose after the entry into force of the Convention, such as allegations related to actions taken in the context of searching for the disappeared person or investigating the person's disappearance.

It may also be noted that, if a State maintains a reservation with respect to individual communications but subsequently withdraws it, the disappearances that occurred will also be known as of the entry into force of the Convention for that State and not as of the withdrawal of the reservation.

ii. Procedure to examine individual communications

The Committee designates among its members a working group or rapporteur on individual communications and interim measures.

If it is clear that a submitted communication does not fulfil the admissibility criteria, additional information may be requested from the author. In such cases, if the author wishes to maintain the complaint, he or she will have to resubmit it together with the requested information.

A communication that, at first sight, fulfils the admissibility criteria is transmitted to the rapporteur, who decides whether to register the case.

If the case is registered, it is sent to the State party for its observations on admissibility and merits, to be sent within four months.

The observations of the State party are sent to the author, who can provide comments within a time limit set by the Committee.

If a State party wishes to request the Committee to declare the communication inadmissible without looking into the merits, it must do so within two months of receiving the communication. On the basis of the reply provided by the State party and the comments provided by the complainant, the working group or rapporteur may decide to examine the admissibility of the case separately from the merits.

Each party can comment on the submission of the other party and/or send additional relevant information and documents. When two rounds of submissions have been received from both parties, the case is generally ready for decision. If, after receiving several reminders, the State party still fails to respond, the Committee may decide the case on the basis of the information in the file.

While the communication procedure and all related documents are confidential, the decisions adopted by the Committee on admissibility and the merits are made public on the web page of the Committee at <https://juris.ohchr.org>, and on all United Nations databases.

If the Committee finds that the facts before it disclose a violation of the author's rights under the Convention, it requests the State party to provide information, within six months, on the steps it has taken to give effect to the Committee's findings and recommendations. The Committee maintains the case under consideration under the follow-up procedure as long as it considers that further action from the State party remains necessary in order to implement its recommendations. Information related to follow-up is reflected in the Committee's reports on follow-up to individual complaints,⁴⁵ and in its annual report to the General Assembly.

Guidance for submitting an individual communication to the Committee on Enforced Disappearances (and other United Nations treaty bodies) is reproduced in [annex V](#).

4. Main differences between urgent actions and individual communications

Purpose of a request for urgent action

Locate a disappeared person through confidential notes to the State party.

Purpose of an individual communication

Establish State party responsibility for violations of the Convention and reparation to victims in a public decision and through a quasi-judicial procedure.

Who can submit an urgent action request?

The relatives of a disappeared person, their counsel, any person authorised by them or any person with a legitimate interest (prior consent of the relatives is not necessary).

⁴⁵ See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?lang=en&TreatyID=2&DocTypeID=59.

Who can submit an individual complaint?

- Relatives, family members or representatives of a disappeared person or their family
- Persons who were victims of enforced disappearance and have been located
- Persons who consider that they are at risk of being disappeared, for example if they consider that they would be at risk of enforced disappearance following their return to another State
- Organizations or individuals acting on behalf of any of the persons or groups of persons above. In such cases, the consent of the affected person or their family should be provided, unless the circumstances of the case prevent such consent (in which case this situation must be explained).

While it is not compulsory, legal advice or representation may be desirable.

When can a request for urgent action be submitted to the Working Group on Enforced or Involuntary Disappearances?

- When the disappearance took place in the territory of, or was perpetrated by agents of, a State party to the Convention,⁴⁶ or when the disappeared person has the nationality of a State party
- A request for urgent action should be reported as soon as possible after the disappearance has been reported to any authorities mandated to search for the disappeared person and investigate the disappearance (domestic remedies do not need to be exhausted).

When can an individual complaint be submitted to the Committee on Enforced Disappearances?

- When the disappearance took place under the jurisdiction of a State party that has made a declaration under article 31 of the Convention⁴⁷
- When the admissibility criteria below are met, including exhaustion of domestic remedies.

⁴⁶ See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en.

⁴⁷ See https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en.

Conditions for submitting a request for urgent action

- The enforced disappearance commenced after the entry into force of the Convention for the State party concerned.
- The case has been reported to (at least one of) the competent authorities that are authorized to undertake investigations, where such a possibility exists (with no obligation to exhaust domestic remedies).
- The case has not been registered by the Working Group on Enforced or Involuntary Disappearances.
- The case is not manifestly unfounded, does not constitute an abuse of the right of submission and is not incompatible with the provisions of the Convention.

Conditions for submitting an individual communication

- The enforced disappearance commenced after the entry into force of the Convention for the State party concerned, and
- The State party's acts or omissions violating the Convention (e.g. failure to investigate an enforced disappearance) occurred after the State party's declaration under article 31 of the Convention.
- All available domestic remedies have been exhausted, unless these were unduly prolonged.
- The same matter is not being examined under another procedure of international investigation or settlement, such as regional courts of human rights.
- The communication is not anonymous, does not constitute an abuse of the right to petition and is not incompatible with the provisions of the Convention.

When can interim measures be requested in the context of an urgent action?

Interim measures of protection can be requested when necessary to protect persons related to the case (the author of the request for urgent action, family members or relatives of the disappeared person, their defence counsel, witnesses, or any person participating in the search or investigation) or pieces of evidence that are relevant for the search or investigation of the alleged disappearance.

When can interim measures be requested in the context of an individual complaint?

Interim measures can be requested to prevent any irreparable harm to:

- The person on whose behalf the individual complaint is submitted (such as measures to prevent refoulement where there is a risk of the person being subjected to enforced disappearance upon return to another State (Convention, art. 16) or measures of protection against threats or acts of intimidation or reprisal).
- Pieces of evidence related to the case.

5. Inter-State communications under article 32

Article 32 of the Convention sets out a procedure for the Committee to consider complaints from a State party that considers that another State party is not fulfilling its obligations pursuant to the Convention. This procedure applies only to States parties that have made a declaration accepting the competence of the Committee in this regard.

Therefore, an inter-State communication will not be considered by the Committee unless both States parties concerned have made a declaration under article 32 of the Convention. An inter-State communication should contain:

- (a) The name of the respondent State;
- (b) The provisions of the Convention alleged to have been violated;
- (c) The objectives of the communication;
- (d) The facts of the claim.

If the formal requirements are met, the Committee must make its good offices available to the States parties concerned with a view to finding an amicable solution to the matter. If such a settlement is reached, the Committee issues a report containing a brief statement of the facts and of the solution found. If the attempt at conciliation fails, the Committee may request the submission of additional information or observations in writing from the States parties concerned. The procedure culminates in the publication of a report that contains a summary of the facts submitted, the position of both parties and suggestions to solve the issues raised. The written submissions made by the States parties are attached to the report.

6. Country visits under article 33

Under article 33 of the Convention, if the Committee receives reliable information indicating that a State party is seriously violating the provisions of the Convention, it may, after consultation with the State party concerned, request one or more of its members to undertake a visit and report back to it without delay.⁴⁸

If the State party concerned agrees to the visit, it shall work together with the Committee to define the modalities of the visit and shall provide the Committee with all the facilities needed for the successful completion of the visit and access to information and the persons concerned. The members designated by the Committee to conduct the visit shall determine their own agenda and methods of work in compliance with the Committee's rules of procedure.

Following the visit, the Committee transmits its findings, together with its conclusions, observations and recommendations, to the State party, which can submit its observations within a period set by the Committee. Subsequently, to ensure a follow-up on the outcome of the visit, the Committee may request the State party to provide additional information on the measures taken with a view to implementing its recommendations.

7. Referral of widespread or systematic practice of enforced disappearance to the General Assembly under article 34

According to article 34 of the Convention, if the Committee receives well-founded information that enforced disappearances are being practised on a widespread or systematic basis in a State party, it may bring the matter to the attention of the General Assembly, through the Secretary-General, after seeking information from the State concerned.

This referral procedure, independently from all the other procedures of the Convention, is applicable to all States parties without the need for any separate declaration of acceptance.

If the Committee activates the referral procedure, it will seek information from the State party concerned, which may elucidate its observations with regard to the allegations brought against it. If the Committee decides to bring the matter to the General Assembly, it must notify the State party

⁴⁸ At the time of publication of this fact sheet, having carried out visits to Mexico (November 2021) and Iraq (November 2022), the Committee has requested a visit to Colombia.

concerned in writing. Once the matter reaches the General Assembly, its treatment will be regulated by the Charter of the United Nations and other documents regulating the General Assembly's mandate. As of the date of this publication, this procedure has never been applied by the Committee.

8. General comments

The general comments drafted by the Committee pursuant to rule 56 of its rules of procedure are aimed at promoting the implementation of the Convention and at assisting States parties in fulfilling their obligations.⁴⁹ The drafting of general comments involves a substantial process of consultation in which all actors related to the issue at stake are invited to take part through written contributions and oral participation in regional consultations and days of general discussion.

9. Protection of individuals and groups cooperating with the Committee

All treaty bodies are particularly concerned with acts of intimidation and reprisals against individuals and civil society actors that engage with them. In this context, due to increasing attention to instances of intimidation and reprisals and a growing urgency to strengthen protection and bring coherence to treaty bodies' responses to persons and groups at risk of or targeted by intimidation or reprisals, in 2015 the Chairs of the treaty bodies endorsed the Guidelines against Intimidation or Reprisals (the San José Guidelines), which provide practical guidance to enhance the efficiency and effectiveness of treaty body action to prevent and address reprisals.⁵⁰

The Committee has endorsed the San José Guidelines. In 2021, it adopted a set of guidelines to prevent and address intimidation and reprisals against individuals and groups cooperating with the Committee.

All allegations of intimidation or reprisals that are received by the Committee are immediately addressed by the rapporteur on reprisals, who is appointed by the plenary, and they are kept confidential.

⁴⁹ At the time of publication of this fact sheet, the Committee is drafting its first general comment, on enforced disappearances in the context of migration.

⁵⁰ [HRI/MC/2015/6](https://www.hri.org/docs/default-source/mc/2015/6).

Those who report allegations of intimidations or reprisals are kindly requested:

- To describe what happened, to whom, where, and when
- To explain the engagement or interaction of the alleged victim(s) with the treaty body in question, and to describe the broader context if needed (such as any history of engagement or previous incidents)
- To identify the alleged perpetrator
- To indicate whether the incident or situation has been brought to the attention of the national or local authorities (e.g. police) and, if not, why not
- To indicate whether the case is being shared with the Committee for action or for information only
- To seek informed consent from the alleged victim(s) and indicate in the submission that they are aware that the information is being shared with the Committee, that they agree to that, and that they understand the implications, in particular if action is requested.

VI. Cooperation and coordination between the Working Group and the Committee

As shown throughout the present fact sheet, the Working Group and the Committee are complementary in their respective roles and functions, and they cooperate in order to maximize their efficiency and avoid duplication. Coordination and cooperation between the Working Group and the Committee are explicitly required by the methods of work of the Working Group and by the Convention (art. 28).

In this perspective, the two mechanisms hold regular meetings, and they periodically issue joint statements and carry out joint activities.⁵¹ They have also established practices to avoid duplication of interventions and to ensure the best level of complementarity between the two procedures, for example in registering urgent actions and in conducting country visits.

As regards collaboration between the Working Group and the Committee, it shall be taken into account that:

- The Committee can intervene only in the States that have ratified the Convention, while the Working Group is able to consider the situation in all countries
- The Committee may deal only with cases of enforced disappearance which occurred after the entry into force of the Convention on 23 December 2010, while the Working Group may examine all situations before that.

In summary, if a case or situation of concern occurs in a State party to the Convention and relates to an enforced disappearance that occurred after 23 December 2010, the Committee can intervene through all of its procedures. Otherwise, it can take information related to past violations

⁵¹ See, for example, “Working Group on Enforced or Involuntary Disappearances (WGEID) ‘in a nutshell’; Committee on Enforced Disappearances (CED) ‘in a nutshell’”, available at www.oacnudh.org/wp-content/uploads/2022/09/WGEID-CED-InglesWEB.pdf; joint webinars to promote the ratification of the Convention, available at www.ohchr.org/en/treaty-bodies/ced/joint-webinar-sharing-experiences-and-positive-outcomes-actions-taken-promote-ratification; joint statements and a video on the International Day of the Victims of Enforced Disappearances, available at www.oas.org/en/IACHR/jsForm/?File=/en/IACHR/media_center/preleases/2022/191.asp and <https://youtu.be/YdMm-l4EWZM>; and a joint statement with other human rights mechanisms on illegal intercountry adoptions, available at www.ohchr.org/sites/default/files/documents/hrbodies/ced/2022-09-29/JointstatementICA_HR_28September2022.pdf.

of the Convention only as an element of analysis of the current obligations of the State party with regard to those cases, while the Working Group has full competence over such cases.

VII. Cooperation with other actors

In accordance with their respective mandates, the Working Group and the Committee regularly cooperate with other bodies and institutions, including civil society organizations, associations of victims' families and national human rights institutions.

The Working Group cooperates, coordinates and, when appropriate, consults with other special procedures of the Human Rights Council, treaty bodies and relevant organs, bodies, offices and specialized agencies and funds of the United Nations, as well as other intergovernmental, international, regional and subregional organizations, with a view to ensuring the consistency of their respective observations and recommendations.⁵²

Should the Working Group determine that a case or allegation before it would be better handled by another body, it will consult with the source and then refer the case or allegation to that other body for action, if appropriate. When preferable, the Working Group will work jointly with the other body or bodies. If a case, allegation or other document received by the Working Group contains information relevant to other bodies, the information will be referred to the bodies concerned, if appropriate.

Article 28 of the Convention requires the Committee to cooperate with all relevant organs, offices and specialized agencies and funds of the United Nations, with the treaty bodies instituted by international instruments, with the special procedures of the United Nations and with the relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances. Article 28 further specifies that the Committee “shall consult other treaty bodies instituted by relevant international human rights instruments, in particular the Human Rights Committee instituted by the International Covenant on Civil and Political Rights, with a view to ensuring the consistency of their respective observations and recommendations.”

⁵² With respect to regional mechanisms, special procedure mandate holders have road maps with the African Commission on Human and Peoples' Rights (see www.ohchr.org/sites/default/files/Documents/HRBodies/SP/SP_UNHRC_ACHPRRoad_Map.pdf) and with the Inter-American Commission on Human Rights (see www.ohchr.org/sites/default/files/Documents/HRBodies/SP/Roadmap_SP_MHs_IACHR.pdf).

Hence, the Committee systematically consults and makes reference to the jurisprudence of other treaty bodies, special procedures and other bodies of the United Nations, and frequently holds meetings and consultations with them.

As regards regional mechanisms, the Committee periodically consults with the African, European and inter-American systems of human rights. To enhance and systematize such cooperation, the Committee and the Inter-American Commission on Human Rights have adopted a road map to guide their permanent interaction.⁵³

The Committee considers that the participation of victims, civil society organizations and national human rights institutions in its work is essential. At every session, the Committee dedicates a space of tribute for victims, and it invites partners to submit written inputs and to brief the Committee orally. At each session, the Committee issues an information note about how to contribute to and participate in the session. It has also adopted documents regulating its relationships with civil society actors and national human rights institutions, respectively.⁵⁴

⁵³ Available at www.ohchr.org/sites/default/files/2022-01/Roadmap-CED-IACHR-Rev10.pdf.

⁵⁴ See CED/C/3 and CED/C/6.

Annexes

Annex I. Declaration on the Protection of All Persons from Enforced Disappearance

The General Assembly,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations and other international instruments, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Deeply concerned that in many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law,

Considering that enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms, and that the systematic practice of such acts is of the nature of a crime against humanity,

Recalling its resolution 33/173 of 22 December 1978, in which it expressed concern about the reports from various parts of the world relating to enforced or involuntary disappearances, as well as about the anguish and sorrows caused by those disappearances, and called upon Governments to hold law enforcement and security forces legally responsible for excesses which might lead to enforced or involuntary disappearances of persons,

Recalling also the protection afforded to victims of armed conflicts by the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, of 1977,

Having regard in particular to the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which protect the right to life, the right to liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law,

Having regard also to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that States parties shall take effective measures to prevent and punish acts of torture,

Bearing in mind the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Standard Minimum Rules for the Treatment of Prisoners,

Affirming that, in order to prevent enforced disappearances, it is necessary to ensure strict compliance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment contained in the annex to its resolution 43/173 of 9 December 1988, and with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, set forth in the annex to Economic and Social Council resolution 1989/65 of 24 May 1989 and endorsed by the General Assembly in its resolution 44/162 of 15 December 1989,

Bearing in mind that, while the acts which comprise enforced disappearance constitute a violation of the prohibitions found in the aforementioned international instruments, it is none the less important to devise an instrument which characterizes all acts of enforced disappearance of persons as very serious offences and sets forth standards designed to punish and prevent their commission,

Proclaims the present Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States and urges that all efforts be made so that the Declaration becomes generally known and respected:

Article 1

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.
2. Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2

1. No State shall practise, permit or tolerate enforced disappearances.
2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

Article 3

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 4

1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.
2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.

Article 5

In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable under civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

Article 6

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.
2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.
3. Training of law enforcement officials shall emphasize the provisions in paragraphs 1 and 2 of the present article.

Article 7

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 8

1. No State shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 9

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7 above.
2. In such proceedings, competent national authorities shall have access to all places where persons deprived of their liberty are being held and

to each part of those places, as well as to any place in which there are grounds to believe that such persons may be found.

3. Any other competent authority entitled under the law of the State or by any international legal instrument to which the State is a party may also have access to such places.

Article 10

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.
2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.
3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

Article 11

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.

Article 12

1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.

2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.
2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.
3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.
4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.
5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 14

Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State

for the purpose of prosecution and trial unless he has been extradited to another State wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring to justice all persons presumed responsible for an act of enforced disappearance, who are found to be within their jurisdiction or under their control.

Article 15

The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in article 4, paragraph 1, above, regardless of the motives, shall be taken into account when the competent authorities of the State decide whether or not to grant asylum.

Article 16

1. Persons alleged to have committed any of the acts referred to in article 4, paragraph 1, above, shall be suspended from any official duties during the investigation referred to in article 13 above.
2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.
3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.
4. The persons presumed responsible for such acts shall be guaranteed fair treatment in accordance with the relevant provisions of the Universal Declaration of Human Rights and other relevant international agreements in force at all stages of the investigation and eventual prosecution and trial.

Article 17

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.
2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.

3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

Article 18

1. Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.
2. In the exercise of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

Article 20

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for and identification of such children and to the restitution of the children to their families of origin.
2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review, by the child's closest relatives.
3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.

For these purpose, States shall, where appropriate, conclude bilateral and multilateral agreements.

Article 21

The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of those provisions.

Annex II. International Convention for the Protection of All Persons from Enforced Disappearance

Preamble

The States Parties to this Convention,
Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to the Universal Declaration of Human Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the other relevant international instruments in the fields of human rights, humanitarian law and international criminal law,

Also recalling the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992,

Aware of the extreme seriousness of enforced disappearance, which constitutes a crime and, in certain circumstances defined in international law, a crime against humanity,

Determined to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance,

Considering the right of any person not to be subjected to enforced disappearance, the right of victims to justice and to reparation,

Affirming the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end,

Have agreed on the following articles:

Part I

Article 1

1. No one shall be subjected to enforced disappearance.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

Article 2

For the purposes of this Convention, “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Article 3

Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.

Article 4

Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law.

Article 5

The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

Article 6

1. Each State Party shall take the necessary measures to hold criminally responsible at least:
 - (a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;
 - (b) A superior who:
 - (i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;
 - (ii) Exercised effective responsibility for and control over

- activities which were concerned with the crime of enforced disappearance; and
- (iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;
- (c) Subparagraph (b) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.
2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

Article 7

1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.
2. Each State Party may establish:
 - (a) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;
 - (b) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons.

Article 8

Without prejudice to article 5,

1. A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings:
 - (a) Is of long duration and is proportionate to the extreme seriousness of this offence;

- (b) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.
2. Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation.

Article 9

1. Each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance:
 - (a) When the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
 - (b) When the alleged offender is one of its nationals;
 - (c) When the disappeared person is one of its nationals and the State Party considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.
3. This Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law.

Article 10

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.
2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties

referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 of this article may communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides.

Article 11

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.
3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law.

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant,

- witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.
2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.
 3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:
 - (a) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;
 - (b) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.
 4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.

Article 13

1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.
2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.
3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.
5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.
6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.
7. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons.

Article 14

1. States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.
2. Such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant mutual legal assistance or may make it subject to conditions.

Article 15

States Parties shall cooperate with each other and shall afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing

disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

Article 16

1. No State Party shall expel, return (“refouler”), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

Article 17

1. No one shall be held in secret detention.
2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:
 - (a) Establish the conditions under which orders of deprivation of liberty may be given;
 - (b) Indicate those authorities authorized to order the deprivation of liberty;
 - (c) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;
 - (d) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;
 - (e) Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;
 - (f) Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their

representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.

3. Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:
 - (a) The identity of the person deprived of liberty;
 - (b) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;
 - (c) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;
 - (d) The authority responsible for supervising the deprivation of liberty;
 - (e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;
 - (f) Elements relating to the state of health of the person deprived of liberty;
 - (g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;
 - (h) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

Article 18

1. Subject to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:
 - (a) The authority that ordered the deprivation of liberty;
 - (b) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;

- (c) The authority responsible for supervising the deprivation of liberty;
 - (d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;
 - (e) The date, time and place of release;
 - (f) Elements relating to the state of health of the person deprived of liberty;
 - (g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.
2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

Article 19

1. Personal information, including medical and genetic data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.
2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.

Article 20

1. Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information referred to in article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention.

In no case shall there be restrictions on the right to information referred to in article 18 that could constitute conduct defined in article 2 or be in violation of article 17, paragraph 1.

2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective judicial remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances.

Article 21

Each State Party shall take the necessary measures to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law.

Article 22

Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

- (a) Delaying or obstructing the remedies referred to in article 17, paragraph 2 (f), and article 20, paragraph 2;
- (b) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate;
- (c) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met.

Article 23

1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of this Convention, in order to:
 - (a) Prevent the involvement of such officials in enforced disappearances;

- (b) Emphasize the importance of prevention and investigations in relation to enforced disappearances;
 - (c) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.
2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.
 3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph 1 of this article who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or bodies vested with powers of review or remedy.

Article 24

1. For the purposes of this Convention, “victim” means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.
2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.
3. Each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.
4. Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation.
5. The right to obtain reparation referred to in paragraph 4 of this article covers material and moral damages and, where appropriate, other forms of reparation such as:
 - (a) Restitution;
 - (b) Rehabilitation;
 - (c) Satisfaction, including restoration of dignity and reputation;
 - (d) Guarantees of non-repetition.
6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party

shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

Article 25

1. Each State Party shall take the necessary measures to prevent and punish under its criminal law:
 - (a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;
 - (b) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a) above.
2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (a) of this article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.
3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 (a) of this article.
4. Given the need to protect the best interests of the children referred to in paragraph 1 (a) of this article and their right to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognized by law, States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance.
5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

Part II

Article 26

1. A Committee on Enforced Disappearances (hereinafter referred to as “the Committee”) shall be established to carry out the functions provided for under this Convention. The Committee shall consist of ten experts of high moral character and recognized competence in the field of human rights, who shall serve in their personal capacity and be independent and impartial. The members of the Committee shall be elected by the States Parties according to equitable geographical distribution. Due account shall be taken of the usefulness of the participation in the work of the Committee of persons having relevant legal experience and of balanced gender representation.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties from among their nationals, at biennial meetings of the States Parties convened by the Secretary-General of the United Nations for this purpose. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
3. The initial election shall be held no later than six months after the date of entry into force of this Convention. Four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which nominated each candidate, and shall submit this list to all States Parties.
4. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 2 of this article.
5. If a member of the Committee dies or resigns or for any other reason can no longer perform his or her Committee duties, the State Party which nominated him or her shall, in accordance with the criteria set out in paragraph 1 of this article, appoint another candidate from among its nationals to serve out his or her term, subject to the approval

- of the majority of the States Parties. Such approval shall be considered to have been obtained unless half or more of the States Parties respond negatively within six weeks of having been informed by the Secretary-General of the United Nations of the proposed appointment.
6. The Committee shall establish its own rules of procedure.
 7. The Secretary-General of the United Nations shall provide the Committee with the necessary means, staff and facilities for the effective performance of its functions. The Secretary-General of the United Nations shall convene the initial meeting of the Committee.
 8. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations, as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.
 9. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate, to the extent of the Committee's functions that the State Party has accepted.

Article 27

A Conference of the States Parties will take place at the earliest four years and at the latest six years following the entry into force of this Convention to evaluate the functioning of the Committee and to decide, in accordance with the procedure described in article 44, paragraph 2, whether it is appropriate to transfer to another body – without excluding any possibility – the monitoring of this Convention, in accordance with the functions defined in articles 28 to 36.

Article 28

1. In the framework of the competencies granted by this Convention, the Committee shall cooperate with all relevant organs, offices and specialized agencies and funds of the United Nations, with the treaty bodies instituted by international instruments, with the special procedures of the United Nations and with the relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances.
2. As it discharges its mandate, the Committee shall consult other treaty bodies instituted by relevant international human rights instruments, in particular the Human Rights Committee instituted by the International

Covenant on Civil and Political Rights, with a view to ensuring the consistency of their respective observations and recommendations.

Article 29

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under this Convention, within two years after the entry into force of this Convention for the State Party concerned.
2. The Secretary-General of the United Nations shall make this report available to all States Parties.
3. Each report shall be considered by the Committee, which shall issue such comments, observations or recommendations as it may deem appropriate. The comments, observations or recommendations shall be communicated to the State Party concerned, which may respond to them, on its own initiative or at the request of the Committee.
4. The Committee may also request States Parties to provide additional information on the implementation of this Convention.

Article 30

1. A request that a disappeared person should be sought and found may be submitted to the Committee, as a matter of urgency, by relatives of the disappeared person or their legal representatives, their counsel or any person authorized by them, as well as by any other person having a legitimate interest.
2. If the Committee considers that a request for urgent action submitted in pursuance of paragraph 1 of this article:
 - (a) Is not manifestly unfounded;
 - (b) Does not constitute an abuse of the right of submission of such requests;
 - (c) Has already been duly presented to the competent bodies of the State Party concerned, such as those authorized to undertake investigations, where such a possibility exists;
 - (d) Is not incompatible with the provisions of this Convention; and
 - (e) The same matter is not being examined under another procedure of international investigation or settlement of the same nature;

it shall request the State Party concerned to provide it with information on the situation of the persons sought, within a time limit set by the Committee.

3. In the light of the information provided by the State Party concerned in accordance with paragraph 2 of this article, the Committee may transmit recommendations to the State Party, including a request that the State Party should take all the necessary measures, including interim measures, to locate and protect the person concerned in accordance with this Convention and to inform the Committee, within a specified period of time, of measures taken, taking into account the urgency of the situation. The Committee shall inform the person submitting the urgent action request of its recommendations and of the information provided to it by the State as it becomes available.
4. The Committee shall continue its efforts to work with the State Party concerned for as long as the fate of the person sought remains unresolved. The person presenting the request shall be kept informed.

Article 31

1. A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.
2. The Committee shall consider a communication inadmissible where:
 - (a) The communication is anonymous;
 - (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of this Convention;
 - (c) The same matter is being examined under another procedure of international investigation or settlement of the same nature; or where
 - (d) All effective available domestic remedies have not been exhausted. This rule shall not apply where the application of the remedies is unreasonably prolonged.
3. If the Committee considers that the communication meets the requirements set out in paragraph 2 of this article, it shall transmit the communication to the State Party concerned, requesting it to provide observations and comments within a time limit set by the Committee.

4. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party will take such interim measures as may be necessary to avoid possible irreparable damage to the victims of the alleged violation. Where the Committee exercises its discretion, this does not imply a determination on admissibility or on the merits of the communication.
5. The Committee shall hold closed meetings when examining communications under the present article. It shall inform the author of a communication of the responses provided by the State Party concerned. When the Committee decides to finalize the procedure, it shall communicate its views to the State Party and to the author of the communication.

Article 32

A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention. The Committee shall not receive communications concerning a State Party which has not made such a declaration, nor communications from a State Party which has not made such a declaration.

Article 33

1. If the Committee receives reliable information indicating that a State Party is seriously violating the provisions of this Convention, it may, after consultation with the State Party concerned, request one or more of its members to undertake a visit and report back to it without delay.
2. The Committee shall notify the State Party concerned, in writing, of its intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The State Party shall answer the Committee within a reasonable time.
3. Upon a substantiated request by the State Party, the Committee may decide to postpone or cancel its visit.
4. If the State Party agrees to the visit, the Committee and the State Party concerned shall work together to define the modalities of the visit and the State Party shall provide the Committee with all the facilities needed for the successful completion of the visit.

5. Following its visit, the Committee shall communicate to the State Party concerned its observations and recommendations.

Article 34

If the Committee receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State Party, it may, after seeking from the State Party concerned all relevant information on the situation, urgently bring the matter to the attention of the General Assembly of the United Nations, through the Secretary-General of the United Nations.

Article 35

1. The Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of this Convention.
2. If a State becomes a party to this Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned.

Article 36

1. The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.
2. Before an observation on a State Party is published in the annual report, the State Party concerned shall be informed in advance and shall be given reasonable time to answer. This State Party may request the publication of its comments or observations in the report.

Part III

Article 37

Nothing in this Convention shall affect any provisions which are more conducive to the protection of all persons from enforced disappearance and which may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 38

1. This Convention is open for signature by all Member States of the United Nations.
2. This Convention is subject to ratification by all Member States of the United Nations. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. This Convention is open to accession by all Member States of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

Article 39

1. This Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to this Convention after the deposit of the twentieth instrument of ratification or accession, this Convention shall enter into force on the thirtieth day after the date of the deposit of that State's instrument of ratification or accession.

Article 40

The Secretary-General of the United Nations shall notify all States Members of the United Nations and all States which have signed or acceded to this Convention of the following:

- (a) Signatures, ratifications and accessions under article 38;
- (b) The date of entry into force of this Convention under article 39.

Article 41

The provisions of this Convention shall apply to all parts of federal States without any limitations or exceptions.

Article 42

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation or by the procedures expressly provided for in this Convention shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. A State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a declaration.
3. Any State Party having made a declaration in accordance with the provisions of paragraph 2 of this article may at any time withdraw this declaration by notification to the Secretary-General of the United Nations.

Article 43

This Convention is without prejudice to the provisions of international humanitarian law, including the obligations of the High Contracting Parties to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, or to the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 44

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they indicate whether they favour a conference of States Parties for the purpose of

considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all the States Parties for acceptance.
3. An amendment adopted in accordance with paragraph 2 of this article shall enter into force when two thirds of the States Parties to this Convention have accepted it in accordance with their respective constitutional processes.
4. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendment which they have accepted.

Article 45

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article 38.

Annex III. Form to submit a communication on an alleged enforced or involuntary disappearance to the Working Group on Enforced or Involuntary Disappearances

1. Information concerning the disappeared person

(a) Given name(s):*

.....

(b) Family name(s):

.....

(c) Pseudonyms or other forms of name by which he or she may be known:

.....

.....

(d) Sex: male / female / other

(e) Occupation/profession and/or affiliation:

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.....

(f) Father's name:

.....

Mother's name:

.....

(g) Date of birth:

.....

* Required information.

(h) Place and country of birth:

.....

(i) Was the person under 18 years of age at the moment of the disappearance?

yes / no

(j) Identity document (passport, national identity card, voter's card or any other relevant national identity card):

Type:

Number:

Date of issue:

Place and country of issue:

(k) Nationality or nationalities:

.....

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(l) Address of usual residence:

.....

.....

(m) Any other place of residence at the moment of the disappearance:

.....

.....

(n) Marital status:

.....

(o) Member of an Indigenous people: yes / no

.....

(p) Pregnant: yes / no

2. Information concerning the facts

- (a) **Date of arrest, abduction or disappearance** (at least month and year).*

.....

- (b) **Place of arrest or abduction or where the disappearance occurred** (be as precise as possible, indicating street, city, province or any other relevant information).*

.....

- (c) **If the person was seen after the disappearance, please indicate the date** (at least month and year).*

.....

- (d) **If the person was seen after the disappearance, please indicate where** (for example, if seen in a prison months after the initial arrest or abduction. Please be as precise as possible. Indicate street, city, province or any other relevant information).*

.....

- (e) **Please provide a full description of how the disappearance took place.** Attach one page if necessary. Please note that, although this is not a required element, providing as detailed a description as possible of the circumstances of the disappearance will increase the chances of finding the person.

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* Required information.

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(f) **State or State-supported forces believed to be responsible for the disappearance.** If the perpetrators are believed to be agents of the State, please specify and indicate who they are and why they are believed to be responsible. Be as precise as possible: military, police, persons in uniform or civilian clothes, agents of security services, unit to which they belong, rank and functions, identification presented, etc.*

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(g) If you are unable to identify the perpetrators as agents of the State, please indicate why you believe that government authorities, or persons linked to them, may be responsible for the incident.

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* Required information.

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- (h) If there are witnesses to the incident, please provide their names and relationship to the victim. If they wish to remain anonymous, indicate if they are relatives, bystanders or others. If there is evidence, please specify.

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- (i) Additional information on the case: please indicate any other relevant information that could be useful to find the person.

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3. Information concerning actions taken after the disappearance

Indicate any action taken by relatives or others to locate the person (police inquiries, jail sentences, involvement of human rights commission, habeas corpus petition etc.). Please state: when, by whom, and before which organ(s) the actions were taken, and the outcome, if any.*

(a) **Complaints** (when, by whom, and before which organ(s), and outcome)

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(b) **Other steps taken** (when, by whom, before which organ(s), and outcome)

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* Required information.

- (c) If no action was taken, please explain why.

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4. Person or organization submitting the communication

Person submitting the communication*

- (a) Family name(s):

.....

- (b) Given name(s):

.....

- (c) Relationship with the disappeared person:

.....

.....

- (d) Contact details (address, telephone, email):

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.....

* Required information.

Organization submitting the communication (if applicable)*

(a) Contact details (address, telephone, email):

.....
.....

5. Confidentiality request

Please state whether the full name(s) of the victim should not appear in public United Nations reports.

Yes, keep my identity confidential

No request for confidentiality

Date:

Place:

Signature of author: *

* Required information.

Annex IV. Form to submit a request for urgent action to the Committee on Enforced Disappearances

The following form provides guidance for persons wishing to submit a request for urgent action to the Committee on Enforced Disappearances, in accordance with article 30 of the International Convention for the Protection of All Persons from Enforced Disappearance, with the aim of requesting the State party to take immediate action to search for, find and protect a disappeared person.

To the extent possible, please provide information on each of the items listed below. Please replace the dotted lines in each section with the corresponding text.

1. State party concerned:

.....

2. Person(s) or organization requesting the urgent action:

2.1 Family name(s):

.....

First name(s):

.....

OR Name of organization:

.....

2.2 Contact information:

Address:

.....

Telephone:

.....

Email:

.....

2.3 Relationship to the disappeared person:

.....

3. Alleged victim(s)

Please provide the following information for each of the alleged victims on whose behalf the request for urgent action is being submitted:

3.1 Family name(s):

.....

3.2 First name(s):

.....

3.3 For names in Arabic, Chinese or Russian, please also provide the full name of the victim(s) as spelled in the original language:

.....

3.4 If necessary, pseudonyms (aliases, nicknames or other names by which the person is known):

.....

3.5 Nationality or nationalities:

.....

3.6 Sex/gender: M F Other

3.7 Date of birth:

.....

3.8 Was the victim under 18 years of age at the time of disappearance?

Yes No

3.9 Place and country of birth:

.....

3.10 Mother's name (if known):

.....

3.11 Father's name (if known):

.....

3.12 Contact information of relatives (if available):

Telephone:

.....

Email:

.....

3.13 Last known contact information:

Usual address:

.....

Telephone:

.....

Email:

.....

3.14 Identity document (passport, national identity document, voter's card or other means of identification): please specify the number of the identity document and provide a copy if available:

Country and place of issue:

.....

3.15 Marital status:

Single Married Consensual union Separated
Widowed

3.16 Name of spouse/partner (optional):

.....

3.17 Does the victim have any children? Yes No

If so:

Number of children:

Ages of children:

3.18 Does the victim have any other dependents? Yes No

If so:

Dependent's name and relationship to victim:

Reason for dependence:

3.19 Was the victim pregnant when she disappeared? Yes No

If so, approximately how many months pregnant was she at the time of her disappearance?

3.20 If deemed relevant, please indicate whether the victim belongs to any groups (for example, indigenous peoples, national minorities, political parties or movements, trade unions, religious groups, human rights groups, non-governmental organizations or lesbian, gay, bisexual, transgender or intersex community)

.....

3.21 If deemed relevant, please indicate whether the victim has a disability:

Yes No

If so, please give details:

.....

3.22 Employment at the time of disappearance:

.....

3.23 Other relevant activities at the time of disappearance:

.....

3.24 Characteristics of the disappeared person that are deemed relevant for the purposes of identification (for example, hair colour, eye colour, approximate height and weight, tattoos, dental features, scars or prosthesis):

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3.25 Clothes that the disappeared person was wearing at the time of disappearance:

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4. Description of the facts of the case

4.1 Date of disappearance:

.....

4.2 Place of disappearance (please be as specific as possible, indicating the street, city and province):

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.....

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4.3 Please provide details of the circumstances of the disappearance and describe what happened, including any relevant information on the local or regional context and any other recent enforced disappearances in the country or region:

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4.4 Date and place of the last sighting of the victim, if different to the date of disappearance (for example, if, following the disappearance, the person was later seen in a place of detention):

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4.5 Please specify whether there were any witnesses to the disappearance, and whether any evidence is available, such as photographs or video or audio recordings:

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4.6 Possible perpetrators of the disappearance:

(a) Please provide any available information about the possible perpetrators of the disappearance, and explain why they are believed to be responsible:

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- (b) Please specify whether the alleged perpetrators of the disappearance are believed to belong to or have connections with the authorities of the State party. In particular, please specify whether the alleged perpetrators are believed to have acted with the support or approval of the State party, and if so, explain the reason for this belief:

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5. Reporting of the disappearance to the competent bodies of the State party concerned, such as those authorized to undertake investigations and searches, where such a possibility exists

- 5.1 Please indicate the competent authorities or institutions of the State party to which the disappearance has been reported, when it was reported, and by whom:

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- 5.2 Please indicate the action taken by the competent authorities or institutions of the State party following the reporting of the disappearance:

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5.3 Please attach copies of any relevant documentation, such as complaints submitted to, replies received from or decisions taken by the authorities to which the disappearance was reported. Please list below the copies of documents attached. **Do not send originals.**

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5.4 If it has not been possible to report the disappearance to authorities of the State party that are competent to undertake an investigation or to search for disappeared persons, please explain why:

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6. Request for interim measures of protection

6.1 Have relatives of the disappeared person(s) or their representatives, witnesses to the disappearance or any persons participating in the search or investigation been subject to threats or pressure relating to the disappearance of the person(s) on whose behalf this request for urgent action is being submitted? Yes No

6.2 If so, would you like the Committee to request the State party to take interim measures of protection to avoid irreparable harm to these persons? Yes No

6.3 If so, please provide the following information:

- (a) Person(s) for whom interim measures of protection are being requested (name(s) and connection with the case in question):

.....

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- (b) Description of the risk of irreparable harm faced by the above person(s) (for example, pressure, acts of intimidation or reprisal):

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.....

- (c) Protection measures that could be taken by the State party to avoid this risk:

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6.4 Is there a risk of irreparable damage to any elements or pieces of evidence relating to the case that could aid efforts to locate the disappeared person(s)? Yes No

6.5 If so, please provide the following information:

- (a) Element(s) for which protection measures are being requested (description and location):

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- (b) Description of the risk of irreparable damage (for example, destruction, manipulation or transformation):

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- (c) Protection measures that could be taken by the State party to avoid this risk:

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7. Other international procedures

7.1 Has the same matter been submitted under another procedure of international investigation or settlement? Yes No

7.2 If so, please indicate:

(a) The body or bodies to which the case has been submitted:

.....

(b) The type of procedure involved:

.....

(c) Date of submission:

.....

(d) Measures adopted:

.....

(e) Results:

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.....

7.3 Please attach copies of any relevant documentation. Please list below the copies of documents attached.

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.....

8. Place, date and signature of the person submitting the request

8.1 Place and date:

.....

8.2 Signature (an electronic signature is sufficient; in the event that the person submitting the request is unable to provide a signature, please explain why):

.....

Annex V. Guidance for submitting an individual communication to the Committee on Enforced Disappearances

1. State party concerned

Please make sure that the State party in question has recognized the competence of the Committee to receive individual communications by making a declaration under article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance. To check whether a State has made such a recognition, please see <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>.

Please make sure that the events that are at the origin of the alleged violation occurred after the State party's recognition of the Committee's competence to receive individual communications (after the State ratified or acceded to the Convention), or that the violation continued beyond that date.

2. Complainant and victim

The complainant is the person submitting the communication to the Committee, usually alleging a violation of his or her own rights. In such cases, the complainant is at the same time the victim. The complainant is referred to by the Committee as “the author” in its final decisions.

A complainant may also act on behalf of another person who cannot submit the complaint for justified reasons (e.g. the person is disappeared, held in incommunicado detention or deceased), as long as the complainant is a family member of the victim or can otherwise justify a legitimate interest.

3. Representative

The complainant may be represented, either legally (through counsel) or non-legally (e.g. through a human rights organization). It is not necessary to have a lawyer prepare the case, although legal advice may improve the quality of the submissions. Complainants must be aware that the United Nations does not provide legal aid under these procedures.

4. Anonymization of a complainant's and/or victim's name

The communication must not be anonymous. The identity of the victim and the author of the communication and their contact information need to be provided to the Committee and are generally necessary in order for the State party to be able to respond to the allegations. Anonymous communications will not be accepted. However, the victim(s) and/or the author may request that their identity is not disclosed in the Committee's final decision. Final decisions adopted by the Committee are made public. Therefore, if complainants do not wish their identity to be disclosed in final decisions, they should indicate this at the earliest opportunity. Owing to the level of publicity that the decisions usually receive (including dissemination via the Internet, which makes it virtually impossible to correct and/or delete data), it may not be possible for the United Nations to satisfy requests for anonymity submitted after the publication of final decisions.

5. Use of other international mechanisms

If the same case has been submitted to another treaty body or to a regional mechanism, such as the European Court of Human Rights, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the African Commission on Human and Peoples' Rights or the African Court on Human and Peoples' Rights, the Committee cannot examine the communication.

6. Interim and protection measures

Interim or provisional measures may be adopted in urgent cases to request that the State in question adopt measures to prevent irreparable harm to the alleged victim while the case is still pending consideration by the Committee. "Irreparable harm" refers to a harm which, due to its nature, cannot be susceptible to reparation. The author requesting interim measures must demonstrate that the risk is real and that, should it materialize, the damage would be irreparable. The author must also demonstrate that the risk is personal (and not merely based on a general context). Typical interim measures include the suspension of the execution of a death sentence or of deportation to a country where the author faces a risk of torture or ill treatment.

The complainant may ask the Committee to request interim measures at any time before the adoption of a final decision or Views. Any such request should reach the secretariat as early as possible before the action that the complainant is seeking to prevent could materialize.

A complainant may also, at any stage of the process, request protection measures to protect individuals involved in the communication, including lawyers, witnesses and family members, from reprisals. The risk must relate to the submission of the communication. This request may even be submitted in the context of the procedure of follow-up to Views (after the adoption of a decision finding a violation).

7. Facts, including exhaustion of domestic remedies

Complainants should present the main facts of the case in chronological order, including the remedies sought at the domestic level and the decisions adopted by domestic authorities. Complainants must have first exhausted all relevant remedies that are available in the State party before bringing a claim to the Committee. This usually includes pursuing the claim through the national court system up to the highest instance, unless complainants can establish that such remedies are unduly prolonged or otherwise ineffective, or that they are unavailable to them. Detailed reasons must be provided as to why the complainant considers that the general rule should not apply. Mere doubts about the effectiveness of a remedy do not dispense with the obligation to exhaust it. The complainant's claim should not be included with this presentation of the facts, but should instead be included under paragraph 8 below.

It is important to submit the communication as soon as possible after domestic remedies have been exhausted. Delays in doing so may make it difficult for the State party to respond properly and for the Committee to evaluate the facts thoroughly. In some cases, submission after a protracted period may result in the case being considered an abuse of the right to petition and therefore inadmissible.

8. Claim

Complainants should state why they consider that the facts described constitute a violation of their rights under the Convention, and they are encouraged to cite specific articles. Complainants are required to specify the

rights that have allegedly been violated and how the State party, through the facts described, has violated them. It is advisable to indicate the specific remedies that the author would like to obtain from the State party, should the Committee conclude that the facts before it disclose a violation.

Lack of sufficient substantiation of facts and allegations may result in rejection of the registration of a communication.

9. Submission of communications

The communication should be in writing, legible, preferably typed, and signed. Communications sent electronically should have an electronic signature or be signed manually, scanned and attached to an email addressed to the Petitions and Urgent Actions Section (PUAS) of the Office of the United Nations High Commissioner for Human Rights (OHCHR), at ohchr-petitions@un.org. An unsigned Word version should also be submitted.

No paper communications will be processed unless it is established that it would be impossible to submit the communication electronically.

Only communications presented in one of the secretariat's working languages (**English, French, Russian and Spanish**) can be accepted. If annexes are not in one of these languages, an unofficial translation summary should be provided. **Only copies should be submitted, not originals. No documents will be returned.**

Annexes should include any decision adopted at the national or international level, as well as other relevant official documents, such as medical reports.

If the description of facts or claims is unclear or lacks information that is essential for it to be processed under the individual communications procedures, PUAS may contact the complainant with a request for additional details or resubmission. Authors should be diligent in their correspondence with PUAS and the information requested should be sent as soon as possible. If the information is not received within two years of the date of the request, the file will be closed.

Annex VI. Guiding Principles for the Search for Disappeared Persons

Introduction

1. The Guiding Principles for the Search for Disappeared Persons are based on the International Convention for the Protection of All Persons from Enforced Disappearance and other relevant international instruments. They also take into account the experience of other international bodies and various countries around the world. They identify mechanisms, procedures and methods for carrying out the legal duty to search for disappeared persons.
2. These guiding principles seek to consolidate good practices in searching effectively for disappeared persons, arising from States' obligation to search. They have been developed on the basis of the accumulated experience of the Committee over its first eight years, in particular in its concluding observations (article 29) and urgent actions (article 30). The guiding principles were developed in dialogue and broad consultation with many victims' organizations, civil society, experts, intergovernmental organizations and States.
3. The guiding principles are inspired by the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (A/RES/60/147), the updated Set of Principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1), the general comments of the Working Group on Enforced or Involuntary Disappearances and the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016). The guiding principles are complementary to the Protocol, with a special emphasis on the search for living disappeared persons.
4. The guiding principles reaffirm the key role that victims play in the search for disappeared persons. They stress the right to form and participate freely in organizations and associations aimed at attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons and assisting victims. These guiding principles use the term "victims" in the broad sense of the term, enshrined in article 24 (1) of the Convention.

Principle 1. The search for a disappeared person should be conducted under the presumption that he or she is alive

The search should be conducted under the presumption that the disappeared person is alive, regardless of the circumstances of the disappearance, the date on which the disappearance began and when the search is launched.

Principle 2. The search should respect human dignity

1. Respect for the dignity of victims should be a guiding principle at every stage of the search for the disappeared person.
2. During the search process, the dignity of the victims requires that they should be recognized as particularly vulnerable, at-risk individuals and as rights holders who should be protected and who possess important knowledge that may contribute to the effectiveness of the search. Public officials should be trained to conduct their work using a differential approach. They should be aware that they are working to guarantee the rights of the victims and should put all their work at the service of victims.
3. The authorities have a duty to ensure that the victims, including family members, are not subject to stigmatization and other moral ill-treatment or slurs that undermine their dignity, reputation or good name as people, or those of their disappeared loved one. Where necessary, they should take steps to uphold the dignity of victims against defamatory attacks.
4. The body or remains of a disappeared person should be handed over to the family members under decent conditions, in accordance with the cultural norms and customs of the victims, with respect at all times for the fact that they are the mortal remains of a person, and not objects. The return should also involve the means and procedures needed to ensure a dignified burial consistent with the wishes and cultural customs of the families and their communities. When necessary, and if family members so wish, States should cover the cost of transferring the body or remains to the place chosen by the family members for burial, even if the transfer is to or from another country.

Principle 3. The search should be governed by a public policy

1. The search should be conducted as part of a comprehensive public policy on disappearances, particularly in contexts where disappearances are frequent or on a mass scale. In addition to the search, the objectives of the comprehensive policy should be the prevention of enforced disappearances, the clarification of earlier disappearances, the appropriate punishment of perpetrators and the adoption of measures for the protection of victims, among other measures to ensure non-repetition of enforced disappearances.
2. The public policy on enforced disappearances should adopt a differential approach, as mentioned in principle 4, in all its operational programmes and projects and not only in respect of vulnerable persons or victims.
3. The specific public policy on searches should be built on the basis of States' obligations to search for, locate, release, identify and return the remains, as appropriate, of all disappeared persons. It should take into account the analysis of the various forms and criminal patterns of disappearances in the country.
4. The public policy should be comprehensive, clear, transparent, visible and consistent. It should promote cooperation and collaboration among all State bodies and also with other States and international agencies. It should be translated into appropriate legislative, administrative and budgetary measures and educational policies and other relevant sectoral policies.
5. All stages and aspects of the public search policy should be designed and implemented with the participation of victims and all persons and civil society organizations with experience and a willingness to cooperate in the design and/or implementation of the policy.
6. A key aim of the public search policy should be to protect and provide comprehensive support to the victims. It should include psychosocial care and support for the victims and measures that prevent their revictimization or secondary victimization. This public policy should include measures to ensure respect for victims and to prevent and punish any form of stigmatization against them.

Principle 4. The search should follow a differential approach

1. The search for persons in situations of vulnerability requires special procedures, experience and knowledge that meet their particular needs. A differential approach should also be adopted in supporting persons who participate in the search, such as family members and other persons close to the disappeared person. Such an approach should also be taken into account in the identification and handover of disappeared persons who are found.
2. The entities responsible for the search should pay special attention to cases involving disappeared children and adolescents, and develop and carry out search actions and plans that take into account their extreme vulnerability. Officials should respect the principle of the best interests of the child at all stages of the search. Where there is doubt as to the individual's age, it should be assumed that he or she is a child.
3. In cases involving adolescent girls and women who have disappeared or are involved in the search, all stages of the search should be conducted with a gender perspective and staff, including female staff, who have received proper training.
4. In cases involving disappeared persons or persons participating in the search who are members of indigenous peoples or other ethnic or cultural groups, there is a need to consider and respect specific cultural patterns when dealing with the disappearance or death of a member of the community. An effective search should involve the provision of translators of the languages of the communities and bicultural interpreters.
5. In cases involving disappeared persons or persons participating in the search who are members of the lesbian, gay, bisexual, transgender and intersex community, have disabilities or are older persons, the bodies responsible for the search should take account of their particular needs.

Principle 5. The search should respect the right to participation

1. Victims, their legal representatives, counsel or any person authorized by them, and any person, association or organization with a legitimate interest have the right to take part in the search. This right should be protected and guaranteed at all stages of the search process,

without prejudice to the measures taken to preserve the integrity and effectiveness of the criminal investigation or the search itself. The persons mentioned above should have access to information on the action taken and on the progress and results of the search and the investigation. Their input, experiences, alternative suggestions, questions and doubts should be taken into account at all stages of the search, as contributions to increasing the effectiveness of the search, and should not be subjected to formalities that hold them up. The refusal of the above-mentioned persons to exercise their right to participate should in no way be used by the authorities as a reason not to initiate or advance in the search.

2. Ensuring access to information includes an obligation to provide adequate guidance to victims concerning their rights and the mechanisms for the protection of those rights. It also includes the duty to provide regular and occasional information on the measures adopted to find the disappeared persons and investigate their disappearance, and on any obstacles that may impede the progress of the search. Victims should be informed and consulted before the authorities pass their information on to the media. The officials in charge of the search should be trained on protection with a differential approach and how to communicate compassionately and respectfully with the family members and other persons involved in the search and should be aware of and sensitive to the potential impact of participating in the search on the physical and mental health of victims.

Principle 6. The search should begin without delay

1. As soon as the competent authorities become aware, by any means, or have indications that a person has been subjected to disappearance, they should begin the search immediately and expeditiously. Where necessary, search activities should include visits to the relevant sites.
2. The authorities responsible for the search should launch and conduct the search for the disappeared person on their own initiative, even when no formal complaint or request has been made.
3. Domestic legislation and the competent authorities should guarantee that the start of the activities to search for and locate disappeared persons is not subject to any waiting period, not even of hours, such that the activities in question are undertaken immediately. A lack of information from family members or complainants cannot be invoked

to justify a failure to immediately launch activities to search for and locate the disappeared person.

4. Where doubts arise about the occurrence of an involuntary disappearance, the search should nevertheless begin immediately. All available evidence required to investigate the possibility of a disappearance and protect the life of the disappeared person should be preserved and protected.

Principle 7. The search is a continuing obligation

1. The search for a disappeared person should continue until his or her fate and/or whereabouts have been determined with certainty.
2. If the disappeared person is found alive, the search may be considered as completed only when the person is again under the protection of the law; such protection shall also be ensured if the disappeared person is found deprived of liberty in a lawful detention centre.
3. If the disappeared person is found dead, the search may be considered as completed when the person has been fully identified in accordance with international standards and handed over to his or her family members or relatives in a dignified manner. When only partial remains have been found and identified, any decision to continue the search to locate and identify the missing remains should take into account the actual chances of identifying more remains and the needs expressed by the family members in the context of their cultural norms concerning funerals. Any decision to discontinue the search should be taken in a transparent manner and requires the prior and informed consent of the family members.
4. If the disappeared person has not been found and there is credible evidence beyond a reasonable doubt of his or her fate or whereabouts, the search may be suspended when it is not physically possible to recover the person and once all obtainable information has been exhaustively analysed and all possible scenarios investigated. This decision should be taken in a transparent manner and requires the prior and informed consent of the family members or persons close to the disappeared person. A witness statement, uncorroborated accounts or an affidavit cannot be viewed as sufficient proof of death for ending the search.
5. Under no circumstances should ending the search for a disappeared person result in the search or criminal investigation being closed.

Principle 8. The search should be conducted on the basis of a comprehensive strategy

1. At the start of the search, all reasonable hypotheses concerning the person's disappearance should be explored. A hypothesis may be rejected only when it cannot be supported based on objective and verifiable criteria.
2. Hypotheses on the disappearance of a person should be based on all available information, including that provided by the relatives or complainants, and the use of scientific and technical criteria; they should not be based on preconceptions regarding the individual circumstances and characteristics of the disappeared person.
3. With the participation of victims and their organizations – if they so wish – the authorities responsible for the search should design a comprehensive strategy for all stages of the search process in which the activities to be performed are determined in an integrated fashion, through all necessary and appropriate means and procedures for the identification, release or exhumation of the disappeared person or establishment of the person's identity. The comprehensive search strategy should include an action plan and a timeline and should be evaluated periodically.
4. The competent authorities should make use of appropriate forensic methods and their professional experience and accumulated knowledge in searching for and locating disappeared persons. They may also request the cooperation of persons with specialist and technical knowledge, forensic experts and other scientists, and civil society organizations to come up with hypotheses for the disappearance, design the comprehensive strategy and conduct search activities.
5. Without prejudice to their obligation to take appropriate measures to search for and locate disappeared persons on their own initiative, the competent authorities should consider all information provided by victims or complainants and make use of the experience of victims and their organizations that have carried out search activities.
6. The comprehensive search strategy should take into account the contextual analysis. Contextual analyses can be used to determine patterns, clarify the motives and modus operandi of perpetrators, profile disappeared persons and establish regional particularities that explain disappearances. The competent authority should carry out contextual analyses independently, in accordance with scientific criteria

and not based solely on information gathered from investigations into individual cases. Contextual analyses should not be used as a pretext for dismissing out of hand investigative or search hypotheses that are not, *prima facie*, consistent with them.

7. When carrying out contextual analyses and designing comprehensive search strategies, the entities in charge of search processes should pay special attention if the disappeared person is a human rights defender or social activist.
8. The comprehensive search strategy for newborn and very young children should take into account the fact that their identity documents may have been altered and that they may have been taken from their families, given a false identity and handed over to a children's institution or another family for adoption. These children and adolescents, who may by now be adults, should be searched for, identified and have their identity restored.

Principle 9. The search should take into account the particular vulnerability of migrants

1. Given the particular vulnerability of persons who cross international borders on a regular or occasional basis, especially unaccompanied children, the States concerned should take specific coordinated measures to prevent disappearances in that context. States should pay attention to the risks of enforced disappearance, which increase as a result of migration, especially in contexts of trafficking in persons, sexual slavery and forced labour.
2. States that send and receive migrants and refugees should adopt specific search mechanisms that take account of the difficulties associated with migration situations. They should offer guarantees and safe conditions to persons who can give testimony about enforced disappearances linked to migration.
3. The States concerned should develop cooperation agreements and establish competent authorities to allow for effective coordination in the search for disappeared persons at each stage of migration. Cooperation between search authorities in countries of origin, transit and destination should ensure the rapid and secure exchange of information and documentation that may help to locate disappeared persons in the country of transit or destination. In full compliance with international standards on non-refoulement, States should ensure that

the registration of migrants at border controls involves the individual examination of all applications for entry so as to allow for an effective search in the event of a person's disappearance.

4. Specific instruments are required to ensure the effective participation in search processes, from their countries of residence, of family members and persons close to persons subjected to disappearance on migration routes. Their knowledge and that of organizations with experience in supporting migrants should be included in the design of strategies and measures for the search for disappeared migrants.
5. States should adopt policies for the protection of victims of enforced disappearance at all stages of migration in order to avoid their revictimization, in particular when the victims are women and/or unaccompanied minors.

Principle 10. The search should be organized efficiently

1. Each State in which cases of enforced disappearance occur or disappearances are committed by persons or groups acting without the authorization, support or acquiescence of the State should have competent institutions with the capacity to search for disappeared persons.
2. The authorities responsible for the search should have the legal capacity, necessary financial and technical resources, administrative structure and budget to enable them to promptly undertake the search activities with the required technical capacity, security and confidentiality. They should also have the necessary professional staff, with appropriate technical and personal skills, including training on protection following a differential approach, and with up-to-date logistical, technical and scientific resources, from all relevant disciplines, to ensure an effective and exhaustive search. They should have the capacity to travel to the places that need to be visited. When necessary, and if requested, they should be afforded adequate protection.
3. The authorities with the competence to carry out search activities should have unrestricted access, and full powers to conduct unannounced visits, to all places where the disappeared persons may be, including military and police facilities and private premises. Where necessary, they should have the power to intervene to ensure the preservation of sites relevant to the search.
4. The authorities responsible for the search should have unrestricted

access to all information, documents, databases, including national security databases, registers and records of the security, military and police forces and private institutions that they consider necessary to search for and locate disappeared persons. Where necessary, they should have the power to intervene to ensure the preservation of documents relevant to the search.

Principle 11. The search should use information in an appropriate manner

1. The authorities responsible for the search should take decisions on the basis of all the information and documentation available and/or collected. Information on the search should be recorded in a complete, thorough and appropriate manner.
2. States should establish registers and databases on disappeared persons that cover the entire national territory and that allow for disaggregation of such factors as the authority entering the data; the dates on which a person was reported missing, found alive, his or her body was exhumed, his or her remains were identified or handed over; and investigations to establish whether it was an enforced disappearance and the reason for the disappearance. These registers and databases should be continuously updated.
3. Relevant data gathered during a search should be entered diligently and promptly into the register of disappeared persons so that they are available for other searches. The experience gained during the search processes should also be recorded, analysed and preserved.
4. Registers and databases should be maintained even after the search has ended, when the person has been located, identified and placed under the protection of the law or when his or her remains have been handed over or identity restored. The information and documentation related to completed search processes should be preserved in archives to which the search authorities should have access.
5. Search authorities should make appropriate use of other registers and databases containing information on births, adoptions, deaths, migration and immigration, inter alia, that may be relevant to the search for, location and identification of disappeared persons. States should take the necessary measures to ensure that the authorities responsible for the search have access to the information contained in

- the registers and databases of other countries.
6. The collection, protection and analysis of all data and all information obtained that may help to locate the disappeared person and clarify his or her fate, such as telephone communications and video recordings, should be a priority from the outset. The failure to collect these data, or their loss or destruction, should be viewed as serious misconduct by the officials responsible.
 7. States should establish databases with elements relevant to the search, including genetic databanks and consultation systems that make it possible to obtain results quickly. These databases should be designed using an interdisciplinary approach and aim to be mutually compatible. In establishing genetic databanks, it should be ensured that:
 - (a) The administering authority of the genetic databank has an appropriate legal framework that guarantees the operation of the database based on purely professional criteria, regardless of the institution to which it is affiliated;
 - (b) The personal information, including medical or genetic data, collected and/or transmitted as part of the search for a disappeared person may not be used or disclosed for purposes other than the search, without prejudice to their use in criminal proceedings relating to a crime of enforced disappearance or in the exercise of the right to obtain reparation. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.
 - (c) The personal information contained in these databases and the chain of custody are duly protected and technically preserved.
 8. States should ensure that the management of databases and registers of disappeared persons respects the privacy of victims and the confidentiality of information.

Principle 12. The search should be coordinated

1. The search should be centralized under, or coordinated by, a competent body that ensures effective coordination with all the other entities whose cooperation is needed for the search to be effective, exhaustive and prompt.
2. Under no circumstances should decentralized bodies (whether they be federal, autonomous, municipal or of another nature) in a country act as a barrier to an effective search. States should guarantee, in their legislation and through administrative or other regulations, that the search is coordinated across all bodies and at all levels of the State.
3. When there are indications that a disappeared person may be in a foreign country, as a migrant, refugee or victim of trafficking in persons, the authorities responsible for the search should use all available national and international cooperation mechanisms and, when necessary, establish such mechanisms.
4. States should take the necessary measures to guarantee the transfer of the knowledge and technology needed for search processes, including those of national and international organizations specialized in searching for disappeared persons and identifying human remains. Their experiences should be drawn on in the establishment of search entities, the definition of their procedures and the ongoing training of their staff.

Principle 13. The search and the criminal investigation should be interrelated

1. The search for the disappeared person and the criminal investigation of the persons responsible for the disappearance should be mutually reinforcing. The comprehensive search process for disappeared persons should be initiated and conducted with the same effectiveness as the criminal investigation.
2. When the search is conducted by non-judicial authorities independent of those that make up the justice system, mechanisms and procedures should be established to ensure cooperation, coordination and an exchange of information between them and the ones responsible for carrying out the criminal investigation, in order to guarantee that the progress and results achieved on both sides feed into one another regularly and without delay.

The competencies of both sets of authorities should be clearly defined by law, so as to prevent them from overlapping and interfering with one another and ensure that they can be complementary. The existence of mechanisms and procedures for searches by administrative, non-judicial and other bodies cannot be invoked as an obstacle to the pursuit of criminal investigations or as an alternative to them.

3. If responsibility for the search process lies with specialized departments or units of the bodies in charge of the criminal investigation (public prosecutor's offices, attorney general's offices or criminal courts), the same level of attention should be devoted to the search as to the criminal investigation. The information obtained from the investigation into the crime of enforced disappearance should be used efficiently and expeditiously in the search for the disappeared person and vice versa. The distribution of trained professionals should reflect the fact that the search and the investigation require equal attention.
4. The completion of the criminal investigation, along with any conviction or acquittal of the persons accused of having committed an offence of enforced disappearance or the declaration of absence by reason of enforced disappearance, should not constitute an obstacle to the continuation of search activities or be invoked to justify their suspension. These activities should be pursued until it has been possible to determine with certainty the circumstances of the disappearance and the fate and whereabouts of the disappeared person.

Principle 14. The search should be carried out safely

1. During the search process, the competent authorities should ensure the protection of the victims at all times, regardless of the level of involvement that they choose to have in the search. Persons who give testimony, statements or support in the course of the search and/or investigation should benefit from specific protection measures that take account of the particular needs in each case. All protection measures should take account of the specific and individual characteristics of the persons requiring protection.
2. States should provide financial support to the victims who search for a disappeared person, bearing in mind the harm caused to the household income by the disappearance of a family member and the additional costs incurred during the search, such as transport, accommodation and loss of working hours, among others.

3. The officials responsible for the search should take into account the risks to physical and mental health that persons and communities may face throughout the search process, such as those stemming from the discovery of the fate of a family member or from frustration at not uncovering any information. Whenever such a risk is identified, from the beginning of the search and even after the disappeared person has been handed over, the competent authorities should offer comprehensive support to the victims and to all persons involved in the search. All protection measures should respect the beneficiaries' right to privacy. Such measures require the prior consent of beneficiaries and are subject to review at their request. The State should allow and facilitate non-State protection measures.
4. States should ensure inter-agency coordination among the entities responsible for protection measures.

Principle 15. The search should be independent and impartial

1. The entities responsible for the search should be independent and autonomous and should perform all their duties in compliance with the principle of due process. All staff, including administrative and support staff, should demonstrate independence, impartiality, professional competence and the capacity to carry out their work using a differential approach, sensitivity and moral integrity.
2. Under no circumstances may the entities responsible for the search be hierarchically subordinated to any institution, agency or person that may be involved in cases of enforced disappearance.
3. No person suspected of having participated in an enforced disappearance should participate or be in a position to influence the course of the search. When such suspicions fall on a person working for an institution responsible for or cooperating in the search, he or she should be relieved of his or her search duties immediately.
4. States should take the necessary measures to ensure that, in the performance of its duties, the entity responsible for the search is free from influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

Principle 16. The search should be governed by public protocols

1. Search protocols are an important tool in ensuring the effectiveness and transparency of the search. They should allow for oversight of the search by the competent authorities, victims and all persons with a legitimate interest in it. These protocols should be public.
2. Innovation and creativity may sometimes be required to ensure a quick and efficient search, which may result in changes to existing protocols. Innovations should be reasoned and transparent.
3. Search protocols should be revised and updated periodically or whenever necessary, in order to incorporate lessons learnt, innovations and good practice that had not initially been envisaged. Any updates or revisions to the protocols should be reasoned and transparent.
4. Compliance with the protocols and other rules governing the search should be monitored efficiently by competent bodies.

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