

***The International Convention for
the Protection of All Persons
from Enforced Disappearance –
an overview***



UNITED NATIONS



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Voices of victims of enforced disappearance



Source: UN Human Rights YouTube, "Stand up for victims of enforced disappearance - Somchai Neelapaijit", September 2017, available at: <https://www.youtube.com/watch?app=desktop&v=vi5ziVj61ul&feature=youtu.be>

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Let's start

How much do you know about the Convention already?

Please provide your answers to the three questions in the chat box.

Question 1

I will read out loud three statements. In response, please indicate **T** for **TRUE** or **F** for **FALSE** for each statement in the chat box:

The Convention for the Protection of All Persons from Enforced Disappearance

- is a treaty of international human rights law

TRUE **FALSE**

- is the only international treaty on enforced disappearances

TRUE **FALSE**

- complements other international human rights treaties in eradicating enforced disappearances

TRUE **FALSE**

Question 2

Please read the below text, complement it and list the following words in the correct order in the chat box: **international law, victims, violation, obligations, crime**

The Convention spells out States parties' _____ vis-à-vis this phenomenon that qualifies as a _____ under _____ and a gross human rights _____, as well as the corresponding fundamental rights of _____.

Question 3

Please indicate the number of the correct response in the chat box:

The implementation of the Convention by the States parties is monitored by the

1. Working Group on Enforced or Involuntary Disappearances
2. Committee on Enforced Disappearances
3. Human Rights Committee

Let's dive in

Presentation of the Convention followed by questions and answers

Setting the scene: getting the terminology right...

- Enforced disappearance
- Forced disappearance
- Disappearance
- Disappeared persons
- Missing persons
- Victims of enforced disappearance

Obligations of States parties to the Convention

- Right not to be subjected to enforced disappearance
- Obligation to respect
- Obligation to protect
- Obligation to fulfil
- Obligations to cooperate
- Obligation to prevent

Applicability of the Convention

- In space (territorial applicability)
- In time (temporal applicability)
- Constitutional and legal frameworks for the applicability of the Convention

The prohibition of enforced disappearance

- Absolute and unqualified prohibition
 - No derogation
 - No restriction or limitation

Let's look at the Convention

Please move into your break-out session
(15 minutes):

- Appoint a rapporteur who will insert the list in the chat box and present it.
- Discuss and identify the obligations:
 - Group 1:** Definition and criminalization of enforced disappearance (arts. 1-7)
 - Group 2:** Judicial procedures, cooperation in criminal matters and assistance to victims (arts. 8-15)
 - Group 3:** Measures to prevent enforced disappearance (arts. 16-23)
 - Group 4:** Victims' rights and the protection of children against enforced disappearance (arts. 24-25)

Definition and criminalization of enforced disappearance

- Definition
- Obligations with respect to disappearances committed by non-State actors
- Criminal offence under domestic law
- Crime against humanity
- Perpetration of and participation in the crime
- Sanctions
- Superior responsibility and due obedience
- Mitigating and aggravating circumstances
- Statute of limitations
- Continuous crime

Judicial procedure and cooperation in criminal matters

- Jurisdiction
- *Aut dedere aut judicare*
- Procedural safeguards for those prosecuted for enforced disappearance
- Procedural guarantees during the investigation phase
- Extradition
- Mutual legal assistance
- International cooperation to assist victims

Measures to prevent enforced disappearance

- Non-refoulement
- Prohibition of secret detention and rights of persons deprived of liberty
- Access to information on persons deprived of liberty
- Protection of personal information and data of persons deprived of liberty
- Exceptional restriction on access to information on persons deprived of liberty
- Release of persons deprived of liberty
- Criminalization of conduct related to enforced disappearance
- Training of personnel

Victims' rights and the protection of children against enforced disappearance

- Notion of “victim”
- Right to know the truth
- Obligation to search for disappeared persons and, in case of death, locate, respect and return their remains
- Reparations
- Obligation to regulate the legal situation of disappeared persons
- Right to form and participate freely in organizations
- Obligation to prevent and punish wrongful removal of children and falsification of the identity of children
- Obligation to search for, identify and locate disappeared children

Let's wrap up – key messages

- Universal treaty
- Comprehensive instrument
- State obligations
- On the entire territory
- From the entry into force