

**Note for the facilitator**

**Module 3: State obligations under the International Convention for the Protection of All Persons from Enforced Disappearance**

Session sequence	<ol style="list-style-type: none"> <li>1. PowerPoint presentation (10 minutes);</li> <li>2. Case study – individual work (10 minutes);</li> <li>3. Case study – group work (20 minutes);</li> <li>4. Debriefing in plenary (40 minutes);</li> <li>5. Wrap-up (10 minutes).</li> </ol>
Total duration	<b>90 minutes</b>
Venue requirements	Spacious training hall arranged in such a way as to promote peer-to-peer atmosphere; preferably round tables with 4 to 5 persons at each table (maximum of 25 participants).
Equipment	<ul style="list-style-type: none"> <li>• Video projector and screen</li> <li>• Laptop or computer with DVD drive or good Internet connection</li> <li>• Speakers with 2–3 microphones (ideally wireless)</li> <li>• Flip charts and markers</li> </ul>
Training materials	<ul style="list-style-type: none"> <li>• PowerPoint presentation</li> <li>• Handout for participants</li> <li>• <a href="#">The text of the Convention</a></li> </ul>
Online adaptation	<p>The session can be adapted to be held online as follows:</p> <p><b>Step 1:</b> Start with the presentation and go through PowerPoint slides.</p> <p><b>Step 2:</b> Divide the participants into four breakout groups if the IT platforms allow for it or alternatively ask all participants with names starting from A–E (working group 1 (constitutional and legal framework and the absolute nature of the prohibition)); F–L (working group 2 (territorial/temporal scope of applicability of the Convention)); M–S (working group 3 (various obligations under the Convention)); and T–Z (working group 4 (obligations with respect to acts that are tantamount to enforced disappearance committed by private persons or groups)) to read the general background and respective case studies.</p> <p><b>Step 3:</b> Ask each working group to discuss the task/questions assigned to them and to designate a rapporteur who will write their findings in the chat box and present them in the plenary.</p>

	<p>Show the instructions, for example on a preprepared PowerPoint slide.</p> <p><b>Step 4:</b> Debrief</p> <p><b>Step 5:</b> Wrap-up</p> <p>Show key messages, for example on a preprepared PowerPoint slide.</p>
Background reading for facilitators	<ul style="list-style-type: none"> <li>• Sections II (in particular, sect. II.A) and III (in particular, sects. III.A–III.B and III.C.1) of part I of the training guide.</li> <li>• OHCHR, <a href="#">Enforced or Involuntary Disappearances</a>, Fact Sheet No. 6/Rev.3.</li> </ul>

### Learning objectives

By the end of this session, participants will be able to:

- Analyse the applicability of the Convention
- Explain the nature of the main obligations of the Convention
- Recommend measures that could be taken to address or improve situations that are at odds with the obligations under the Convention

### Session preparations

In advance of the session:

- Handouts with case studies for each working group are included as separate documents. You can also prepare a different situation that is more pertinent to a specific country context

### Session sequence

#### **Step 1: Participatory presentation**

*Duration: 10 minutes*

- Go through the PowerPoint presentation to briefly present the main points (cross-reference to module 1).

#### **Step 2: Case study – individual work**

*Duration: 10 minutes*

- Divide participants into four groups and assign one case study to each group. You can assign the same case study to two groups where necessary. This will also spare debriefing time.
- Present case study, a short description of the scenario involving a number of legal issues relevant to the applicability of and the obligations under the Convention with a task (three questions).
- Ask participants to read the case studies and identify the main legal issues and refer them to the relevant Convention article(s).

#### **Step 3: Case study – group activity**

*Duration: 20 minutes*

- Ask each group to select a rapporteur.
- Request each group to discuss the three questions and to write on the flip chart or in the chat box the list of legal issues relevant to the situation.

#### **Step 4: Debriefing in plenary**

*Duration: 40 minutes*

- Ask each rapporteur to brief about the obligations under the Convention identified in their situation, key actors for particular issues, additional information needed to fully understand the issue and possible remedies. Other participants can complement.
- Give feedback on the work of the group: did they correctly identify the issues at stake? Are the measures identified to remedy the situation appropriate and realistic? Do they have any experience of how these measures have worked concretely?
  - Case 1: Refer to points 2, 4 and 5 under recap below
  - Case 2: Refer to points 6 and 7 under recap below
  - Case 3: Refer to point 4 under recap below
  - Case 4: Refer to point 3 under recap below

#### **Step 5: Wrap-up**

*Duration: 10 minutes*

- Main points for the wrap-up:
  - Absolute prohibition
  - Various obligations
  - Giving full effect to the provisions of the Convention at the domestic level
  - Temporal and geographical aspects regarding the applicability of the Convention
- Recap main messages of the session. Among those:
  1. The Convention contains different types of obligations. States parties have a duty to respect, protect and fulfil the rights affirmed in the Convention and to comply with other obligations enshrined therein. The States parties to the Convention also have the obligation to cooperate and to take preventive measures with the aim of facilitating the prevention and repression of enforced disappearance.
  2. The overarching right not to be subjected to enforced disappearance is an absolute human right and cannot be subject to derogations or limitations.
  3. The States parties to the Convention have an obligation to prevent and repress enforced disappearances. Most notably, they have the duty to prevent, investigate and punish enforced disappearances, and to redress the harm caused by such acts, as defined in article 2 of the Convention. States parties are also under an obligation to investigate and sanction acts that are tantamount to enforced disappearance and are perpetrated by non-State actors, as defined in article 3 of the Convention.
  4. States parties should take the necessary steps to give full effect to the provisions of the Convention in their domestic legal order, including by making such changes to domestic laws and practices as are necessary to ensure their conformity with all the obligations stemming from the Convention and the enjoyment of the rights emanating from it.

5. All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level – national, regional or local – are bound by the Convention and thus in a position to engage the responsibility of the State party.
  6. The application of the Convention starts from the point in time when it enters into force with respect to the State party concerned. Nonetheless, while the Convention generally does not apply retroactively in relation to the act of disappearance itself, the obligations contained in the Convention apply with respect to those cases in which the disappearance commenced prior to the entry into force of the Convention with respect to the State party concerned and it is ongoing (although this may be brought to the attention of the Committee on Enforced Disappearances only in the context of the examination of reports submitted pursuant to article 29). The Committee considers that “if information related to the past is useful during the reporting process as a means to understand fully the challenges of the present, the Committee ought to direct its attention in its concluding observations to the current obligations of the State concerned”. This means that the Committee can include the analysis of the way the State party implements its conventional obligations since the entry into force of the Convention with regard to facts that occurred before the entry into force of the Convention, but not with regard to the facts themselves. This includes, for example, the obligations related to the investigation and punishment of a disappearance or to the victims’ access to reparation.
  7. As relates to the geographical applicability of the Convention, as any treaty, it is applicable on the whole territory of the State party. In the present case, the obligation of the State to investigate exists either under article 2 of the Convention (cases of enforced disappearances allegedly perpetrated by State agents), or under article 3 (cases of disappearances where there is no involvement of State agents, “committed by persons or groups of persons acting without the authorization, support or acquiescence of the State agents”). It is also to be noted that the State party must implement its obligations related to the prevention of enforced disappearances over the whole territory of the State party.
- Respond to additional questions from participants

**TIP:** Please note that debriefing by four groups, one after the other, may be too much for participants to listen to. Participants rarely pay attention to this debriefing part. One solution could be to assign two situations to four groups (two groups could work on the same situation). This will limit the debriefing part to two main presentations that the “second” group can complement.