

CONSULTATION ON THE FIRST DRAFT OF THE GENERAL COMMENT NO. 1 ON ENFORCED DISAPPEARANCES IN THE CONTEXT OF MIGRATION

1. We are grateful to the Committee on Enforced Disappearances for the opportunity to comment on the First Draft of the above General Comment. References to paragraph numbers below are to paragraphs in the draft General Comment.
2. We welcome the development of this General Comment which is already extremely comprehensive. We believe that it will make a valuable contribution to the development of international standards in this area.
3. In the light of our experience, we have the following suggestions for ways in which the draft General Comment could be further improved:
 - a) We note that the concept of torture and cruel, inhuman or degrading treatment or punishment (CIDTP) is not mentioned at all in the Introduction (paras. 1-10), and indeed the only reference in the draft General Comment to torture or CIDTP is in the context of pushbacks (para. 34). In our experience, torture and CIDTP is a common feature of enforced disappearances in the context of migration, and it may be helpful for this to be articulated more clearly.
 - b) Likewise, there is no mention of extortion which (in certain jurisdictions) lies at the root of the enforced disappearance of migrants. This could, for example, be incorporated into para. 6. In the same paragraph, it may be useful to include reference to militias or other non-state actors in terms of their possible collusion with State agents, since in our experience the problem is not limited to 'organised criminal groups'.
 - c) Paragraph 12 refers to the need to develop national policies to protect migrants, but it might be helpful to refer to 'national policies *and legislation*', which, in many contexts would be necessary to provide the protections required.
 - d) In paragraphs 15 and 16 regarding mechanisms to prevent secret detention, we consider that it might be useful also to include:
 - i) A requirement to inform the detainee of the reasons for their detention, and keep a register of detentions (para. 15);
 - ii) A requirement that legislation should include a limit on the permissible period of detention (para. 16(a));
 - iii) A requirement that an administrative process or procedure should exist for the deprivation of liberty (para. 16(b));
 - iv) A requirement that detainees should be informed of their rights and the reasons for their detention (para. 16(d)).
 - e) It would be useful if the existence of available mechanisms to report violations (para.20) were combined with a mechanism to protect victims (and their families) from reprisals.
 - f) We note that there appears to be a typographical error in paragraph 19, where the first few words appear to have been inadvertently moved from the text of paragraph 16(e).

ABOUT REDRESS

4. REDRESS is an international human rights NGO based in the United Kingdom and The Netherlands with a mandate to deliver justice and reparation for survivors of torture, challenge impunity for perpetrators, and advocate for legal and policy reforms to combat torture. REDRESS was established in 1992 and has been in consultative status with the Economic and Social Council since 2011. REDRESS collaborated with the African Commission on Human and Peoples' Rights in the development of the Guidelines on the Protection of All Persons from Enforced Disappearances in Africa (2022), referenced in the draft General Comment.