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NETHERLANDS HELSINKI COMMITTEE

The Committee on Enforced Disappearances

Addendum to the Manual

Using Law Against Enforced Disappearances

Practical Guide for Relatives of Disappeared Persons and NGOs

The Committee on Enforced Disappearances

Addendum to the Manual
Using Law Against Enforced Disappearances

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Preface

The **Addendum to the Manual "Using Law against Enforced Disappearances"** has been written with the purpose to provide the relatives of the disappeared persons, family associations of victims, non-governmental organisations and other civil society actors with information on the new monitoring mechanism which can be used in the fight against Enforced Disappearances – **the Committee on Enforced Disappearances (CED)**.

The Committee on Enforced Disappearances was established under the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which is the first universally binding treaty dealing specifically with the subject of enforced disappearances.

This Addendum continues the work of the Manual "Using Law against Enforced Disappearances", published in 2009. The Manual provided complete understanding of how national and international law can be used to clarify or prevent disappearances and address the perpetrators. Since the Manual was published before the Convention entered into force and the Committee on Enforced Disappearances became operational, it did not contain detailed information about the work of the Committee.

The Addendum provides a clear overview of the working methods of the Committee and explains various actions which civil society actors can undertake. In addition, the Addendum incorporates advice and practical information for the civil society, in order to enhance their cooperation with the Committee.

This publication is a joint initiative of the *Netherlands Helsinki Committee* and *Justice and Peace Netherlands*.

Please send all comments on how to improve this Addendum to **info@justiceandpeace.nl** and **office@nhc.nl**.

When is this Addendum useful for you?

1. **If your country ratified the International Convention for the Protection of All Persons from Enforced Disappearance – this Addendum is always useful for you.**

The Committee on Enforced Disappearances can **only** accept cases which:

- occurred in a country that ratified the International Convention for the Protection of All Persons from Enforced Disappearance, and
- commenced after the Convention entered into force in the State concerned.

The information about ratifications can be found on the website of the Committee (**view website**), under "Ratifications and Reporting" (**view document**). It is advised to consult this document before engaging with the Committee.

2. **If your country did NOT ratify the International Convention for the Protection of All Persons from Enforced Disappearance – this Addendum might be useful for you.**

The Committee will **not** consider cases taking place in a country which did not ratify the International Convention for the Protection of All Persons from Enforced Disappearance. However, information provided in this Addendum may be **useful for advocating ratification of the Convention** and acceptance by States Parties of **the competence of the Committee under articles 31 and 32 of the Convention** (individual and inter-state communications). The information can also be used for other purposes.

If your country did not ratify the Convention, you can submit cases of enforced disappearances to the **United Nations Working Group on Enforced or Involuntary Disappearances** (**for more information please see website**).

How to use this Addendum

The first chapter of the Addendum focuses on the short introduction of the Committee on Enforced Disappearances. **The second chapter** concentrates on the working methods of the Committee on Enforced Disappearances and it allows the relatives of disappeared persons and NGOs to distinguish between different actions they can undertake making use of the Committee. This chapter also provides practical information and advice for the civil society actors in their engagement with the Committee.

The Addendum uses icons and different coloured text boxes in order to point out and clarify certain issues, or to provide additional information.

Vocabulary

A text box marked with this icon explains the important legal terms used in the Addendum.

Working Method

A purple text box contains the full text of an Article of the International Convention for the Protection of All Persons from Enforced Disappearance, describing a certain working method of the Committee.

Example of a Case

A green text box provides an example of a case, showing how the Committee used a certain working method in practice.

INTRODUCTION:

The Committee on Enforced Disappearances

1. The International Convention for the Protection of All Persons from Enforced Disappearance

The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) is the first universally binding treaty dealing specifically with the subject of enforced disappearances (view the text of the Convention). The Convention was adopted in 2006 and it entered into force on 23 December 2010. On 1 November 2015, the ICPPED was ratified by 51 States. The updated list of ratifications can be found on the website of the Committee under "Status of ratification by treaty and by country" (view document).

VOCABULARY

Binding treaty

Written agreement that establishes legal rights and obligations which can be claimed in front of a court. The commitment by States to comply with binding obligations is (supposed to be) strong.

Ratification

The approval or acceptance of a binding legal instrument by a State. The moment a State ratifies an instrument (usually a treaty) the obligations contained therein become valid (provided the instrument is already in force) and States must obey by their content.

Accession

The act whereby a State accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force.

Entry into force

For an entry into force of binding norms, two conditions are necessary:

1. The instrument itself must have entered into force (some instruments can only come into effect when a certain number of States have accepted to comply with it);
2. The State has accepted to abide by it (after ratification).

The Convention established the **Committee on Enforced Disappearances.** The Committee is a monitoring mechanism of the Convention, which means that it monitors the compliance of a State Party with the norms accepted in the Convention. The methods and means for monitoring compliance are described in the second chapter of the Addendum, along with possible actions for the civil society actors.

VOCABULARY

Treaty body (monitoring mechanism, monitoring body)

The Committee on Enforced Disappearances is a treaty body. Monitoring bodies called into existence by treaties are called treaty bodies. Other examples of treaty bodies are the **Human Rights Committee** established by the International Covenant on Civil and Political Rights and the **Committee against Torture** established by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

2. Election of the Committee's members

The Committee consists of ten independent experts. The experts are of high moral character and recognised competence in the field of human rights. The members of the Committee are elected by the States Parties for a term of four years, with a possibility of one re-election. Due account is also taken to equitable geographical distribution and balanced gender representation. The members of the Committee serve in their personal capacity. This means that even though the members are elected by the States, they do not serve as their representatives. The members of the Committee are obliged to carry out their duties independently and objectively. In addition, the members are unpaid and receive a remuneration only for their expenses during the meetings of the Committee. They often have a different primary job, which means they cannot spend all their time on the fulfilment of their tasks as Committee members. Nonetheless, the Committee on Enforced Disappearances is continuously operational. Apart from the short sessions in which they meet, the members of the Committee assume their duties throughout the year and communicate regularly between themselves and with the Secretariat of the Committee. In addition, the rapporteurs for urgent actions and reprisals, chosen among the Committee's members, are available at any moment.

3. Current members

The current members (November 2015) of the Committee are Mr. Mohammed Al-Obaidi from Iraq, Mr. Santiago Corcuera Cabezut from Mexico, Mr. Emmanuel Decaux from France, Mr. Luciano Hazan from Argentina, Mr. Rainer Huhle from Germany, Ms. Suela Janina from Albania, Mr. Kimio Yakushiji from Japan, Mr. Juan José López Ortega from Spain, Ms. Maria Clara Galvis Patino from Colombia and Mr. Daniel Figallo Rivadeneyra from Peru. Last elections for five Committee members were held in June 2015. The updated list of members can be found on the website of the Committee under "Membership" (view document).

4. Sessions

The Committee holds two sessions per year in Geneva, Switzerland. As the Committee became operational in 2011, it has so far held nine sessions.

- The first yearly session is usually held between February and April.
- The second session takes place between the months of September and November.

The provisional agenda, programme of work and other documents of each session are available on the Committee's website (view documents). The provisional agenda is published approximately two months before the session takes place, while the programme of work usually becomes available three weeks before. Both the provisional agenda and the programme of work are still subject to small changes during the session.

5. The Secretariat

The Secretariat of the Committee holds office in Geneva, where it is present and can be visited throughout the whole year. Most of the communication between the civil society actors and the members of the Committee is channelled through the Secretariat, as will be explained in the second chapter of the Addendum. The Secretariat consists of four people: a Secretary, a Human Rights Officer, an Administrative Assistant and a Secretary for the urgent actions and communications.

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CHAPTER 2

Working Methods of The Committee on Enforced Disappearances

The Committee on Enforced Disappearances has competencies in a number of areas, with different working methods that can be found in the Convention. We will explain them more in detail in this chapter of the Addendum. Each subchapter consists of three parts:

1. **A general introduction of the working method;**
2. **The importance of the method for the civil society actors, focusing on the possible actions that civil society actors can take;**
3. **Practical information and tips for civil society actors.**

1. STATES PARTIES REPORTS

Each State Party of the Convention has to submit a **report** to the Committee on the measures it has taken to fulfil the obligations from the Convention. The report should be submitted within two years after the ratification of the Convention by a State Party. The Committee can request additional information about the issue of enforced disappearances in the State Party after a certain period of time. This usually happens after six years, but the Committee can also request it earlier.

Following the submission of the state report and additional information gathered from the civil society actors, the Committee agrees on the **list of issues** in relation to the report and transmits it back to the State Party. The Committee can also submit a list of questions to the State Party. The State Party provides written replies or responds to the list of issues orally during the session in which the state report is discussed. The **list of issues** can be seen as additional information the Committee can request for reasons such as: unclarity about information in the report; information provided by NGOs that cannot be found in the state report; outdated information in the state report, etc.

The Committee examines these reports (the state report and the possible additional response to the list of issues) during the sessions and addresses its recommendations to the State Party in the form of **concluding observations**.

- In order to effectively review state reports and prepare the list of issues and concluding observations, the Committee appoints two or more **country rapporteurs** among its members for each report.
- During one session the Committee will examine **an average of two state reports** and prepare the **list of issues for two other States Parties** whose reports will be considered at the following session. In general, reports are considered in arrival order. However, the Committee reserves the possibility to give priority to reports which arrived later, should the situation in the state party require it.
- The Committee considers the States Parties' reports in **public meetings**, allowing the reporting State to participate in a constructive dialogue.
- After the meeting with the State Party, the Committee will discuss and adopt concluding observations in a **closed session.**

The Convention also prescribes a **follow-up procedure**, which allows the Committee to gather additional information about the measures taken by the State Party in order to implement a particularly urgent or serious recommendation from the Committee.

- The **deadline** for the submission of a follow-up report is one year after the issuance of concluding observations.
- **Follow-up rapporteurs** are appointed by the Committee among its members. They will examine the information provided by the State Party and report back to the Committee once a year.

If a State Party **failed to submit a report** or additional information, the Committee can transmit a **reminder** through the Secretary General of the United Nations.

VOCABULARY

Implementation

The acceptance of a norm by a State creates an obligation for that State to respect, protect, and fulfil that norm. This often means taking concrete measures. Taking these concrete measures is what is called the implementation of a norm.

Respect: The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights.

Protect: The obligation to protect requires States to protect individuals and groups against human rights abuses.

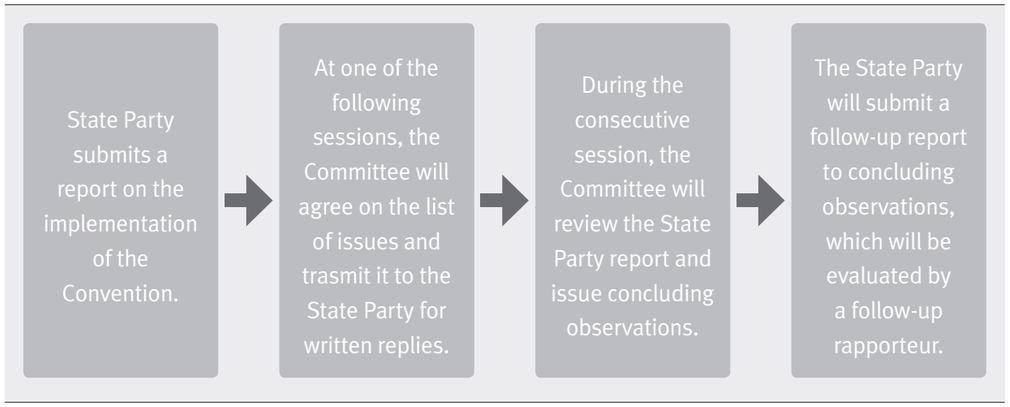
Fulfil: The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.

Article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance

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.

1.1. Reporting process step-by-step



1.2. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

National human rights institutions, non-governmental organisations, associations of the families of disappeared persons and other civil society actors are strongly encouraged by the Committee to provide information during all stages of the reporting process.

ACTION: Submit information about enforced disappearances to the Committee

Civil society actors can submit information regarding the issue of enforced disappearances occurring in their State at all stages of the reporting process.

- **Submit an alternative report**
  Alternative reports (also called shadow reports) from NGOs provide additional information on the implementation of the Convention by the State Party, comments and opinions about States Parties' reports or their written replies to the lists of issues. The reports can be submitted before and/or after the submission of a State Party report.
  These reports are called alternative because they create an opportunity for the civil society actors to present their own view of the situation and balance it against the state reports, which often tend to present a more "optimistic" description of the existing situation than it actually is in reality.
  Civil society actors also have the opportunity to submit alternative reports in case the Committee decides to examine a State Party in the absence of a report from the State.
- **Submit additional information regarding the list of issues**
  New questions or issues can arise in the period between the submission of the state report and the session during which the Committee deals with this state report. If the NGOs already submitted an alternative report, they can still update it with additional information. Civil society actors can provide information concerning some of the problems indicated by the Committee in the list of issues and prepare other suggestions for issues and questions. At this stage, it is recommended to cooperate with the country rapporteurs of the Committee. Since the names of the rapporteurs are not revealed until few days before the dialogue, the communication goes through the Secretariat. The country rapporteurs are the main persons responsible for collecting questions and issues concerning a certain State Party, and therefore they are very important for the advocacy activities of civil society actors.
- **Submit a report during the follow-up procedure**
  NGOs can also submit alternative reports at a later stage, during the follow-up procedure to concluding observations. At this stage, civil society actors can assess measures taken by the States Parties in order to implement the Committee's recommendations.

ACTION: Participate in a formal closed meeting with the Committee

Before the stage of examination of States Parties' reports, civil society actors also have a possibility to engage with the Committee during a **formal closed meeting**. They can express their concerns in an oral presentation and engage in a dialogue with the members of the Committee. These meetings usually take place at the beginning of the session.

ACTION: Plan an informal private meeting with the Committee

Civil society actors can brief the Committee during **informal private meetings** organised outside the sessions. They usually take place one day before the examination of a State Party report or on the day itself. Informal meetings with the Committee, such as working lunches or exchanges during coffee breaks, should be initiated and organised by the civil society actors (see more information and advice below).

ACTION: Participate in the sessions of the Committee

Civil society actors can attend the Committee's sessions as **observers** during the examination of States Parties' reports.

ACTION: Provide online webcasts of the sessions

In order to provide more transparency and visibility of the work of the Committee, NGOs are encouraged to use webcasting during the constructive dialogues with the States Parties and distribute these webcasts online.

ACTION: Translate the concluding observations in the national language

The Committee further recommends the civil society actors to translate the concluding observations of the Committee into local language(s). In theory, States are responsible for the translation, however this happens rarely and it is often poorly executed and/or very late.

1.3. Timeline for possible actions

Session: List of Issues

- Provide comments on the list of issues and State Party replies to the list of issues, and make suggestions for other issues and questions – **during the preparation of the list of issues and after the list of issues is published by the Committee.**

→

Session: Examination of a state report

- Provide comments on the state report and information about the implementation of the Convention – **before and/or after the examination of State Party report.**
- Organise formal/informal meetings at the beginning of the session – **confirm attendance at least one month before the session.**
- Attend the session as observers – **the registration opens few months in advance.**

→

Follow-up to concluding observations procedure

- Translate the concluding observations into national languages – **after the concluding observations are published.**
- Submit reports on the implementation of the recommendations given by the Committee in its concluding observations – **at the time the State Party is due to submit a follow-up report or when the report is made public.**

1.4. Practical information – HOW CAN YOU DO IT?

The website of the Committee on Enforced Disappearances contains practical information and advice for the civil society actors in their engagement with the Committee. Additional 'tips and tricks' are also provided in this part of the Addendum.

A – ALTERNATIVE REPORTS

The submission of alternative reports or additional information by civil society actors has to fulfil certain criteria in order to be accepted and considered by the Committee. It is important to pay attention to the following:

- **Anonymous submissions will not be accepted** by the Committee, therefore it is important to always identify the full name of the organisation.
- The submissions need to be **relevant** for the Committee's mandate and **indicate the name of the State Party** in question.
- **If confidential, the submissions need to be marked as such**, otherwise they will be published on the Committee's website.
- The submissions should **not contain the names of the victims, unless** the cases are public or the consent of the victims/relatives is obtained.
- The CED Secretariat does **not** translate the civil society reports, therefore they should be **submitted in English, French or Spanish.** If the documents are submitted in French or Spanish, it is recommended to translate them, at least to some extent, to **English.**
- **The deadlines for the submission** of reports and other information can be found on the Committee's website under the relevant session, in a document named "Information Note for NGOs" (view document 9th session). These **deadlines should be respected**.
- It is recommended that the submissions **follow the form of State Parties reports.** (as an example, see the state report from Mexico). It is also very important that the alternative reports are punctual and factual, and that they refer to the paragraph numbers of the report submitted by the State Party.
- **The submissions should be sent in electronic form to ced@ohchr.org.** The subject of the e-mail needs to contain the **name of the State Party and the session number**. Both **PDF and Word** formats are accepted.
- For more information and suggestions regarding alternative reports please consult the Committee's website under "Information for Civil Society Actors" (view document).

B – MEETINGS AND SESSIONS

Civil society actors are welcome to attend the sessions of the Committee. However, there are some rules and advice which need to be observed. It is important to note that letters of invitation for the sessions will **not** be sent out to the civil society actors. The Committee is also **not** able to assist the civil society actors with any **costs** related to their participation in the sessions or with their **visa applications**.

- **Accreditation for the session** is strictly required. Registration for the session is possible few months before the session. It is important to pay attention to the **deadlines** for registration. The details about accreditation can be found on the Committee's website under "Accreditation" (view document) and under the relevant session, in a document named "Information Note for NGOs" (view document 9th session). The information note also contains a link for online registration at CSO-Net (view CSO net). It is recommended to collect the ground passes needed to enter the United Nations premises **at least one day before the session.**
- It is recommended to **confirm attendance** to a formal meeting and **arrange informal briefings** with the Committee **at least one month before the beginning of the session**. The civil society actors should contact the CED Secretariat at mgbianchi@ohchr.org and ced@ohchr.org.

- The **request for video conference** should be sent to ced@ohchr.org, at least **one month prior** to the session.
- **Informal meetings,** for example lunch or coffee with the members of the Committee/country rapporteurs, **should be organised by the civil society actors themselves**. The Secretariat can facilitate in arranging a room and help with the promotion of the event, but the rest of the arrangements (catering, interpretation, flyers, etc.) needs to be organised by the civil society actors initiating the informal meeting. The budget for these meetings should also be foreseen by the civil society actors.
- **Interpretation in English, French and Spanish** is available during the **formal meetings** with the Committee members. Interpretation in **Arabic** is provided only when necessary and upon request, basically when the State party is Arabic-speaking or when the Arabic-speaking Committee members are the country rapporteurs. **There is no interpretation available for the informal briefings.** If possible, it is recommended to have **at least one English-speaking person present at the meeting**. Be aware of the high costs of interpreters from Geneva, who mostly charge for the whole day regardless of the number of hours for which they provided assistance.
- Civil society actors should make sure that the team member taking part in the formal/informal meeting with the Committee members has an **excellent understanding and knowledge of the content presented in the alternative report, experience and confidence with public speaking and is fluent in the working languages of the Committee, or at least in English**. Since the formal procedure at the meeting is very strict, it is recommended to prepare beforehand, for example by attending a session concerning another State Party.
- **During formal sessions there is a strict time period (usually 10-15 minutes) when civil society actors are allowed to speak.** Since this time is shared between any actors which had requested to speak, it is useful to find out the number of other organisations speaking at the session and the content of their statements.
- Since the Secretariat does **not** make copies of civil society submissions, it is recommended to bring **15 hard copies for distribution** during the session.
- It might be useful to **engage in a dialogue with the government delegation** of the State Party concerned. This can be done both before the arrival to Geneva and during the session.
- It is also recommended to get in contact with the **country rapporteur.** Be aware that country rapporteurs can change between the pre-session and the session discussing the report. Before contacting the country rapporteur for advocacy, it is recommended to check which member of the Committee is the rapporteur at the moment.
- In case the civil society actors are **not able to attend the session themselves,** the solution may be to find an organisation from Geneva willing to present their statements and suggestions.

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2. URGENT ACTIONS PROCEDURE

A request for an urgent action implies that the disappeared person needs to be **sought and found as a matter of urgency** (see below under article 30 of the Convention). The request can be submitted by different **actors**, namely:

- The relatives of the disappeared person;
- Their legal representative or counsel;
- Any person authorised by the relatives;
- Any other person with a legitimate interest.

This request can be submitted **only** if**:**

- The enforced disappearance happened in a country which is a State Party to the Convention, and
- After the ratification of the Convention by the State Party concerned.

If the State concerned did **not** ratify the Convention, please see the possibilities of submitting an urgent action to the **United Nations Working Group on Enforced or Involuntary Disappearances** (see Manual on Enforced Disappearances).

A request for urgent action can be submitted with regards to any State Party of the Convention, since the States Parties are **not** required to specifically accept this competence of the Committee. If the request for urgent action satisfies all criteria required by the Convention, the Committee will request the State Party to provide information about the case within a certain time limit. These **communications are confidential** and they will be considered during **private meetings**.

The Committee may take various follow-up actions:

- Give recommendations to the State Party concerned,
- Order interim measures in order to locate and protect the disappeared person,
- Order protection measures.

Interim measures are used in serious and very urgent cases. The purpose of interim measures is the protection of the disappeared person, but other **protection measures** are also available to protect witnesses, relatives, their defence counsel or other persons participating in the investigation. If the person is not found or the State Party failed to provide useful information, the Committee will **maintain regular contact** with the State Party until the case is resolved. In case of **reprisals** or intimidation of relatives of disappeared persons, witnesses to disappearances or their families, members of organisations of relatives and other non-governmental organisations, human rights defenders or individuals concerned with disappearances, the Committee will notify the State Party authorities and request protection measures.

Article 30 of the International Convention for the Protection of All Persons from Enforced Disappearance

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.

EXAMPLE OF URGENT ACTIONS PROCEDURE – MEXICO

In July and August 2013, four people disappeared during the activities allegedly involving the naval forces of Mexico. The relatives of the disappeared and the State Party jointly submitted a request for urgent actions procedure. Since all of the disappearances occurred in similar circumstances, the requests were submitted together.

The first victim was driving in his car, when he got detained by naval officers and taken away in a military car. The witnesses of the event refused to testify because of fear of reprisals, which resulted in the rejection of the first complaint. After an intervention of the human rights defenders, the Attorney-General's Office and the National Human Rights Commission carried out an investigation into the disappearance. However, the naval forces failed to provide an official statement regarding the disappearance.

The second victim disappeared in similar circumstances, in the presence of witnesses and members of the police. The victim's father was one of the witnesses, seeing the victim being forced into a military car by naval officers. The father went straight to the naval base, where he was told that his son has been detained there. However, in the course of the day he started receiving different information about the whereabouts of his son from the naval officers and the police. He submitted a complaint to the Attorney-General's Office. Police officers who witnessed the event, confirmed that the victim was taken by naval officers. However, the naval forces denied their involvement and failed to provide a response about the allegations. Further complaints were submitted to the National Human Rights Commission in Mexico City and to the Human Rights Unit of the Ministry of the Interior in Mexico City.

The third disappearance involved two victims, who were detained at a military checkpoint and forced into a military car. A witness followed the car and saw it entering a naval base. After an inquiry at the base, the parents of the victims were told that no civilians were being held there. Supported by witness testimonies, they submitted a complaint to the Attorney-General's Office. There was no response from the naval officers.

The requests for urgent actions were registered by the Committee on Enforced Disappearances and transmitted to Mexico in August 2013. In October 2013, the State Party replied to the request and described the investigation procedure. Few days later, the Committee received information from the Human Rights Committee in Mexico about the remains of the second victim. The Committee immediately sent an additional letter to the State Party. It requested an explanation for the lack of official notice about the remains and reminded the State Party to ensure protection of the

complainant, witnesses, relatives of the disappeared person and their defence counsel against all ill-treatment or intimidation. The authors of the request replied to the report of the State Party and pointed out the deficiencies in the investigation. The Committee urgently sent a letter to the State Party, repeating the questions the State Party failed to respond to in its first report. In December 2013 and January 2014, the State Party provided new reports about the disappearances. The Committee transmitted the reports to the authors, who indicated their disappointment about the lack of results of the investigation. In February 2014, the Committee contacted the State Party for more details and answers.

2.1. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

ACTION: Assist in the submission of the request for urgent action

Civil society actors can **assist the relatives and other persons** in submitting their request for urgent action. They can file urgent cases and request interim or protection measures. The organisations must continue their communications with the Committee as long as the case remains unresolved.

2.2. Practical information – HOW CAN YOU DO IT?

- The request for urgent action must be submitted **in writing.** The **template of the form for the submission** of an urgent request can be found on the website of the Committee under "Urgent actions". The form is available in **Arabic, Chinese, English, French, Russian and Spanish** (view instructions and form). **Requests** for urgent actions, **including annexes,** can be submitted in any official language of the United Nations. However, the Secretariat is currently in a position to process submissions only in **English, French, Russian and Spanish**. Submissions in other official languages may take much longer to be processed. **An unofficial translation of the annexes** is sufficient.
- **The request must not be anonymous,** therefore the names and contact details of persons submitting the request are essential. The **identity of the victim** needs to be provided as well.
- The form should be completed using a **computer or a typewriter**, and otherwise written by hand in block capitals.
- The facts should be presented clearly and in **chronological** order. Make sure to **use full names of the institutions** important for the case.
- It is necessary that the case is **not already being examined by the United Nations Working Group on Enforced or Involuntary Disappearances.**
- Persons who can submit requests for urgent actions can also **submit requests for interim and protection measures**. These measures can be requested **at any stage** of the urgent actions procedure.
- Requests for urgent actions can be sent to the Committee **by post, fax or e-mail** (see the contact details below).
- The Committee appreciates to be informed if a disappeared person resurfaces, which may allow the Committee to close the urgent action case.

CONTACT DETAILS:

Petitions and Inquiries Section/Committee on Enforced Disappearances
Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva

1211 Geneva 10 Switzerland
Fax: +41 (0)22 917 90 22 5
E-mail: petitions@ohchr.org
ced@ohchr.or
registry@ohchr.org

3. INDIVIDUAL COMMUNICATIONS

The Committee on Enforced Disappearances can receive and consider individual communications (see below under article 31 of the Convention). Individual communications can be brought to the Committee by or on behalf of individuals, who claim to be victims of a violation by a State Party of the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee can **only** examine individual communications about an enforced disappearance case if the State Party recognised the Committee's competence to receive such communications. States Parties can issue a declaration at the time of ratification or at a later stage. Information about these declarations can be found on the Committee's website (for additional information, see paragraph below "Practical information").
If a State Party accepts the competence of the Committee, **individuals claiming to be victims of a violation of the Convention** can send communications to the Committee.

- The Committee examines these communications in **closed meetings**.
- If an individual communication meets all requirements prescribed by the Convention, the Committee will communicate it to the State Party concerned and request observations and comments. The State Party must provide answers within **four months**.
- In serious cases where irreparable damage to the victims needs to be prevented, the Committee may transmit a request for **interim measures.**
- The decisions on the merits of individual communications are of **quasi-judicial character** and they will be **published** on the Committee's website.

- The Committee can also request a **follow-up response** from the State Party regarding the actions it has taken in order to implement Committee's views and recommendations. This information will be transmitted to the authors of the individual communication and the follow-up activities of the State Party will be discussed at each following session.

POINT FOR ADVOCACY:

If the State in question failed to recognise the competence of the Committee to receive individual communications, civil society actors are **encouraged to advocate for the acceptance of this competence.** If the State in question did not ratify the Convention yet, civil society actors should be aware that the recognition of the competence of the Committee to receive individual (and /or inter-state communications) should ideally be **made explicit during the ratification.** Do not forget to make this a part of the advocacy.

VOCABULARY

Declaration

Some treaties require States to make a special declaration, at the moment of ratification or later, giving monitoring bodies certain powers.

Exhaustion of domestic remedies

Situation in which all legal instruments and possibilities to claim the respect or fulfilment of a right within the national legal system have been used or, at least tried. This condition may not be required in those situations where domestic remedies are ineffective or delays are excessively long.

Article 31 of the International Convention for the Protection of All Persons from Enforced Disappearance

1. A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognises 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.

EXAMPLE OF INDIVIDUAL COMMUNICATION PROCEDURE

The Committee has registered its first individual communication in September 2013. The first Rapporteur for the new communication was selected during the fifth session, in November 2013. The Rapporteur presented a report about the progress of the individual communication at the session in March 2014.
The information regarding the first individual communication is confidential and it will not be disclosed until a formal final decision is taken by the Committee.

3.1. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

ACTION: Assist in submitting individual communications to the Committee

Civil society actors can provide assistance to the persons claiming to be victims of a violation of the Convention in submitting their complaints to the Committee on Enforced Disappearances.

3.2. Practical information – HOW CAN YOU DO IT?

- The individual communication will **not** be considered by the Committee if the State Party failed to recognise the competence under article 31 of the Convention. Before submitting an individual communication, it is important to check whether the State Party concerned has **accepted**

this competence of the Committee. This information can be found on the Committee's website, under "Declarations and reservations" (view document).

- The individual communication must be submitted **in writing**. The **template of the form** for the submission of an individual communication can be found on the website of the Committee under "Complaints Procedure". The form is available in **Arabic, Chinese, English, French, Russian and Spanish** (view instructions and form). Individual communications, including annexes, can be submitted **in any official language** of the United Nations. In order to speed up the process, it is recommended to submit the communications in **English, French or Spanish.** Unofficial translation of the annexes is sufficient.
- **Anonymous communications will not be considered** by the Committee. However, the victims can request to stay anonymous in the Committee's **final decision.**
- **Communications can also be brought by third parties on behalf of individuals**. However, the Committee requires a **written consent of the victim**. If it is not possible to provide the consent, the person submitting the communication must provide an explanation and his/her legitimate interest.
- When submitting individual communications, it is recommended to use **legal assistance** of a qualified lawyer.
- All **effective domestic remedies must be exhausted** before the submission of an individual communication. This means that all effective possibilities to obtain justice through the national criminal law system must already have been used. If the remedies cannot be considered effective, it is possible to go directly to the Committee. If the remedies are not exhausted or the case is at the same time being examined under another international procedure, the Committee will **not** consider the individual communication.
- Authors of individual communications can also **submit requests for interim and protection measures**. These measures can be requested at any stage of the procedure, **but** before the adoption of the final decision by the Committee.
- Individual communications can be sent to the Committee **by post, fax or e-mail** (see the contact details below).

CONTACT DETAILS:

Petitions and Inquiries Section/Committee on Enforced Disappearances
Office of the United Nations High Commissioner for Human Rights
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E-mail: petitions@ohchr.org
ced@ohchr.or
registry@ohchr.org

4. INTER-STATE COMMUNICATIONS

States Parties of the Convention can recognise the competence of the Committee on Enforced Disappearances to receive and consider inter-state communications. **A State Party can submit a complaint** to the Committee, **claiming that another State Party is not fulfilling its obligations under the Convention.** However, inter-state communications can be brought to the Committee **only if both of these States declared that they recognise this competence of the Committee**. The Committee will review these communications at **closed meetings** and adopt a **report**, which will be transmitted to the States Parties concerned.

Article 32 of the International Convention for the Protection of All Persons from Enforced Disappearance

A State Party to this Convention may at any time declare that it recognises 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.

4.1. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

Civil society actors do **not** participate in the inter-state communications procedure. There is **no** practice of inter-state communications in front of the Committee on Enforced Disappearances.

5. COUNTRY VISITS

The Committee on Enforced Disappearances can **undertake country visits** to States Parties in order **to examine alleged violations** of the Convention.

- If the Committee evaluates that the information concerning alleged violations is **reliable**, it will contact the State Party concerned about its **intention and purpose** of the visit.
- The State Party has to **consent to the visit** of the Committee within reasonable time.
- The Committee may also decide to **postpone or cancel** the visit, if the State Party has well-founded reasons.
- Following the visit, the Committee will report about its findings and transmit the **conclusions and recommendations** to the State Party concerned, which will have to reply to the observations of the Committee within a certain time period.

The Committee can request the State Party to provide additional **follow-up information** on the implementation of its recommendations. In case of **reprisals** against individuals who provided information during the visit, the Committee can request the State Party to implement urgent **protection measures**.

Article 33 of the International Convention for the Protection of All Persons from Enforced Disappearance

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.

EXAMPLE OF COUNTRY VISIT PROCEDURE – MEXICO

Between December 2012 and April 2013, four non-governmental organisations contacted the Committee on Enforced Disappearances, providing information about alleged violations of the Convention by the State Party. The NGOs expressed their concern about the lack of proper investigations, accountability of perpetrators and adequate reparations for victims, and they requested the Committee to undertake a country visit. In May 2013, the Committee transmitted the allegations to the State Party, requesting observations and comments. In its response to the Committee, the State Party indicated that the state report, which is currently being drafted, will also include the information about these allegations. The Committee reminded the State Party that it will nonetheless consider the request for a country visit during its next session. In January 2014, the Committee noted that the state report has not yet been submitted and notified the State Party about its intentions to undertake a visit. The Committee scheduled a visit for November 2014 and requested the State Party to confirm the visit within a certain time limit. The State Party failed to respond to this request.

5.1. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

ACTION: Provide information about serious violations of the Convention

Civil society actors can trigger country visits by providing information to the Committee about a State Party that is seriously violating the Convention. They have an important role in keeping the Committee updated about the situation and providing the members with new information, both before and during the country visit.

ACTION: Participate in the meetings of the Committee and facilitate participation of the victims

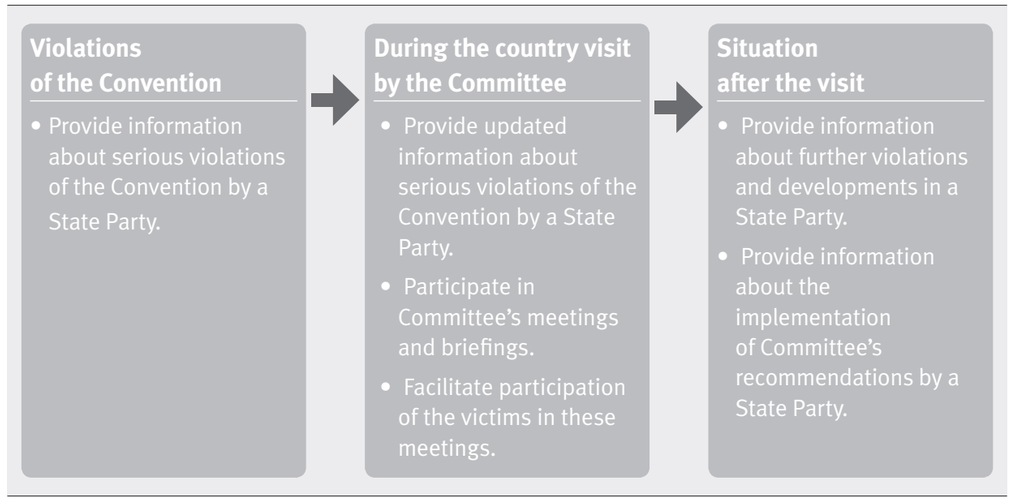
Civil society actors can hold closed meetings with the Committee and they can participate in the meetings or hearings concerning the Committee's assessment of the situation in a State Party concerned. They can also facilitate the participation of the victims in these meetings.

ACTION: Provide follow-up information

Following the report of the Committee, civil society actors may stay in contact with the Committee, in order to provide additional information about the implementation of the Committee's recommendations or possible developments in the State Party concerned.

POINT FOR ADVOCACY:
Civil society actors can put pressure on their country to consent to a country visit by the Committee. An even better commitment to address enforced disappearances would speak from an **open invitation** to the Committee to plan a country visit at any date.

5.2. Timeline for possible actions



5.3. Practical information – HOW CAN YOU DO IT?

- All relevant information should be sent to the Committee **by e-mail.**

CONTACT DETAILS:

E-mail: ced@ohchr.or
registry@ohchr.org

6. MECHANISM TO ADDRESS WIDESPREAD OR SYSTEMATIC ENFORCED DISAPPEARANCES

In the case of **widespread or systematic practice of enforced disappearances** in a territory under the jurisdiction of a State Party, the Committee on Enforced Disappearances will contact the State Party concerned and ask for more information about the alleged situation.
If the allegations of violations show to be true, the Committee will **urgently contact the General Assembly of the United Nations, through the Secretary General of the United Nations.** The importance of this action lies in the fact that the United Nations Security Council may refer a situation to the International Criminal Court (ICC), which empowers the ICC to investigate the crime.

Article 34 of the International Convention for the Protection of All Persons from Enforced Disappearance

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.

6.1. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

ACTION: Provide information about enforced disappearances practised on widespread or systematic basis

Civil society actors can provide reliable information about serious violations of the Convention, indicating widespread or systematic practice of enforced disappearances. On the basis of this information, the Committee can decide to contact the Secretary General of the United Nations in order to bring this matter to the attention of the General Assembly. Therefore, civil society actors play an important role in triggering this mechanism.

6.2. Practical information – HOW CAN YOU DO IT?

- All relevant information should be sent to the Committee **by e-mail.**

CONTACT DETAILS:

E-mail: ced@ohchr.or
registry@ohchr.org

7. OTHER ROLES OF CIVIL SOCIETY ACTORS

7.1. Possible actions for relatives or NGOs – WHAT CAN YOU DO?

ACTION: Provide information about the impact of enforced disappearances on women and children

Civil society actors can help the Committee on Enforced Disappearances by providing information and statistical data about the impact of enforced disappearances on women's and children's rights. This issue has been identified as a specific topic of concern for the Committee. Civil society actors can help to shape the opinion about this issue and highlight the importance, in order to increase the understanding of the Committee about this topic and assist the Committee with setting standards. They are also encouraged by the Committee to consult women's organisations and women human rights defenders, and stimulate their participation in gathering and providing information to the Committee. This information should be provided when submitting information in the context of articles 29, 30, 31, 33 and 34 of the Convention (state reports, urgent actions, individual communications, country visits and widespread practice of enforced disappearances).

ACTION: Provide information about reprisals

Reprisals are another issue of particular concern to the Committee. Civil society actors, especially non-governmental organisations, can also gather and provide information about cases of intimidation, persecution and reprisals against persons who submitted information to the Committee. This information should be provided when submitting information in the context of articles 29, 30, 31, 33 and 34 of the Convention (state reports, urgent actions, individual communications, country visits and widespread practice of enforced disappearances). As a new tool for protection against reprisals, the Committee recently adopted the "San José Guidelines against Intimidation or Reprisals" and created a focal point with a rapporteur on reprisals. The rapporteur will receive the allegations of intimidation or reprisals and advise the Committee on appropriate course of action.

ACTION: Use technology to enhance cooperation

The Committee encourages civil society actors to use technology, such as video or telephone conference links and webcasting, in order to increase the cooperation and contributions from all regions. The CED Secretariat organises video-conferences for the civil society actors that would like to meet with the Committee, but are unable to travel to Geneva. The request for a video conference should be sent to ced@ohchr.org, at least one month prior to the session. In addition, the Committee strongly encourages the NGOs to distribute the webcasts of constructive dialogues with States Parties.

ACTION: Translate documents of the Committee

The Committee further recommends the civil society actors to translate the documents of the Committee into local languages. States are obliged to translate these documents as well, however this happens rarely and it is often poorly executed.

ACTION: Promote ratification of the Convention and raise awareness

Civil society actors should continue their work in advocating ratification of the Convention and recognition of the Committee's competence to consider individual and inter-state communications. In addition, civil society organisations should raise awareness and increase the publicity of the Committee and its activities, including through means of training.

NGOs can also invite individual members of the Committee to participate in activities related to information dissemination and lobbying for the Convention in their personal capacity.

Legal instruments are designed to be used by those persons who these instruments are meant to protect. The initiative of *Justice and Peace Netherlands* and the *Netherlands Helsinki Committee* to compile the experiences gathered from many organisations of families of the disappeared persons and NGOs intends to enhance the capacities of victims of enforced disappearances to initiate legal actions for truth, justice and redress. Therefore, *Justice and Peace Netherlands* and the *Netherlands Helsinki Committee* hope that this Addendum will encourage more actions to be launched, and that more of them will be successful. Therewith we hope to contribute to a world in which eventually no person will face the risk of being disappeared anymore.

JUSTICE & PEACE
Local justice on a global scale

NHC
NETHERLANDS HELSINKI COMMITTEE