

### **III.9 The Committee on Enforced Disappearances (CED)**

The General Assembly proclaimed on 18 December 1992 the Declaration on the Protection of all Persons from Enforced Disappearance as a body of principles for all States.

The International Convention for the Protection of All Persons from Enforced Disappearances (ICED), adopted by resolution A/RES/61/177 of the General Assembly on 20 December 2006, is not yet in force. According to Article 39, the Convention will enter into force 30 days after at least 20 States have ratified it. As at 11 January 2010, 18 States had ratified the ICED. Since it can be expected that the Convention will enter into force in the very near future, this treaty body is also included.

For the purposes 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” (Article 2).

The Convention confirms that enforced disappearance constitutes a crime against humanity when practised in a widespread or systematic manner. According to Article 3, each State party must undertake appropriate measures to investigate those acts and bring those responsible to justice.

According to Article 24, para. 1, the definition of “victim” includes not only the disappeared person but also any individual who has suffered harm as the direct result of an enforced disappearance, such as family members. Article 24, para 5, also refers to the right to obtain reparation which covers material and moral damages and, where appropriate, other forms such as restitution, rehabilitation, satisfaction and guarantees of non-repetition.

#### ***The Committee on Enforced Disappearances***

The Committee shall consist of ten independent experts who serve in their personal capacity. They shall be elected by secret ballot from a list of persons nominated by States parties for a term of four years and be eligible for re-election once (Article 26).

The CED is mandated to consider periodic reports, submitted by the States parties, inter-state and individual complaints. The Committee will also be allowed to undertake field inquiries and to bring situations of widespread and systematic enforced disappearance to the attention of the UN General Assembly. Furthermore, the CED can send urgent communications to States, requesting them to take all necessary measures to locate and protect a disappeared person.

After four to six years following the entry into force of the ICED, the States parties will evaluate the functioning of the Committee and decide whether they

will transfer the monitoring of the Convention to another treaty body (Article 27).

The practice of enforced disappearances violates multiple human rights as laid down in the Universal Declaration on Human Rights and the two International Covenants on Human Rights (ICCPR and ICESCR) as well as in the ICED. The disappearance can infringe the following rights:

- right to recognition of the legal personality of the victim,
- right to liberty and security of the person,
- right of not being subjected to torture,
- right to life,
- right to an identity,
- right to a fair trial and to judicial guarantees,
- right to an effective remedy, including reparation and compensation,
- right to know the truth regarding the circumstance of a disappearance.

### ***The Working Group on Enforced or Involuntary Disappearance (WGEID)***

The Working Group was established by the UN Commission on Human Rights in 1980 to assist the relatives of disappeared persons to determine their fate and whereabouts. The WGEID consists of five independent experts from all regions of the world; since then, its mandate has been regularly renewed. The Working Group holds three regular sessions a year for 5-8 working days, usually in Geneva.

The Working Group does not

- directly investigate individual cases;
- directly adopt measures of protection against reprisals;
- establish individual or state responsibility in cases of enforced disappearance;
- judge and sanction;
- carry out exhumations;
- grant just satisfaction or forms of reparation; nor
- deal with disappearance perpetrated by non-state actors, e.g., rebel groups.

The Working Group examines reports received from relatives of disappeared persons or human rights organizations acting on their behalf. If these reports comply with the criteria set by the Working Group, the individual cases are transmitted to the governments concerned requesting them to carry out investigations and to inform the Working Group about the results. The Working Group deals with the cases on a purely humanitarian basis, acting as a channel of communication between the families of the victims and the governments concerned.

The Working Group reports annually to the Human Rights Council on all cases of enforced disappearance that it has received during the year; it also makes observations on the situation of disappearances in individual countries (see section II).

### **References**

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### **E-Resources**

International Convention :

<http://www2.ohchr.org/english/law/disappearance-convention.htm>

Working Group on Enforced or Involuntary Disappearance (WGEID):

[www2.ohchr.org/English/issues/disappear](http://www2.ohchr.org/English/issues/disappear)