

COMMITTEE ON ENFORCED DISAPPEARANCES  
Fifth session  
Geneva, 4 – 15 November 2013

**REPORT OF THE COMMITTEE ON ENFORCED DISAPPEARANCES  
ON ITS FIFTH SESSION**

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## **I. ORGANIZATIONAL AND OTHER MATTERS**

### **A. States parties to the International Convention for the Protection of All Persons from Enforced Disappearance**

1. As at 15 November 2013, the closing date of the fifth session of the Committee on Enforced Disappearances (CED), there were 40 States parties to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and 93 signatory States. The Convention was adopted on 20 December 2006 during the sixty-first session of the General Assembly by resolution A/RES/61/177. The Convention was opened for signature on 6 February 2007. In accordance with its article 39(1), the Convention entered into force on 23 December 2010.

2. A list of States parties to the Convention, as at 15 November 2013, as well as the deadline by which they have to submit their reports to the Committee, is included in annex I of this report.

### **B. Opening of the fifth session**

3. The fifth session of the Committee on Enforced Disappearances was opened by the Director of the Human Rights Treaties Division, Mr. Ibrahim Salama, who, on behalf of the High Commissioner for Human Rights, congratulated Mr. Santiago CORCUERA CABEZUT on his election and Mr. Mohammed AL-OBAIDI, Mr. Luciano HAZAN, Mr. Juan José LÓPEZ ORTEGA and Mr. Kimio YAKUSHIJI on their re-elections and thanked Mr. Enoch MULEMBE for his contribution during his tenure. Mr. Salama raised the issue of reprisals against human rights defenders and families of victims and commended the Committee for nominating one of its members to focus on that issue. He also highlighted the protection from reprisals and the need for support for those individuals and civil society organizations struggling to implement the Convention and expressed his satisfaction at the deepening relationship with civil society. He also stressed the importance of cooperation with other treaty bodies and the need for harmonization, consistency and coherence of jurisprudence. He also welcomed the contribution of the Committee to the treaty body strengthening process and briefed the members on the recent progress that has been made.

### **C. Election of Officers**

4. The Committee elected by consensus the following members to its Bureau, for a term of two years, with due regard to equitable geographical representation, according to Rule 15 of the Rules of procedure.

Chairperson: Mr. Emmanuel DECAUX (France)

Vice-chairpersons: Mr. Mohammed AL-OBAIDI (Iraq)  
Ms. Suela JANINA (Albania)  
Mr. Mamadou Badio CAMARA (Senegal)

Rapporteur: Mr. Alvaro GARCÉ GARCÍA Y SANTOS (Uruguay)

5. After his re-election by consensus, the Chairperson, Mr. Decaux, thanked his colleagues for their support and nomination for another term as Chairperson. In his statement, he highlighted the increase of States parties and mentioned that ratification is only the first step, which should be followed by the implementation of the Convention in the domestic legal order. He also stressed the need of extending the length of each session of the Committee from two to three weeks in order to be able to meet the increasing submission of States parties' reports. He expressed his concern over the reprisals against victims of enforced disappearance and singled out the protective role of the Convention in this regard.

#### **D. Membership of the Committee**

6. The Committee on Enforced Disappearances was established in accordance with article 26, paragraph 1, of the Convention. Four members of the Committee were re-elected and one new member was newly elected by the Meeting of States parties held on 28 May 2013.

7. A list of members of the Committee, indicating the duration of their terms of office, is included in annex II of the present report. All members attended the session.

#### **E. Observance of a minute of silence in remembrance of the victims of enforced disappearance**

8. At the end of his statement, the Chairperson invited all those present to observe a minute of silence in remembrance of the victims of enforced disappearance.

#### **F. Adoption of the agenda and organization of work**

9. The Committee adopted the agenda for the fifth session (CED/C/5/1). The adopted agenda is included in annex III.

## II. ACTION TAKEN DURING THE FIFTH SESSION

### A. Working methods

10. During its fifth session, the Committee discussed the following issues related to its working methods:

- a. Discussion on the clause of *ratione temporis* in article 35 of the Convention
- b. Distribution of functions within the Committee
- c. Consultation and drafting of the document on the engagement with national human rights institutions;
- d. Finalization and adoption of the document on the engagement with civil society

### B. Communications, information and requests received by the Committee

11. Since its fourth session, the Committee received eight new urgent actions under article 30 of the Convention, of which four were registered, related to alleged enforced disappearances occurred in States parties. In accordance with article 30, paragraph 3, of the Convention and Rule 62 of its Rules of procedure, the Committee transmitted the information submitted by the authors of the requests for urgent actions to the concerned States parties.

12. The Committee discussed the proposal of new forms for the presentation of urgent action requests under art. 30 of the Convention, and of communications under art. 31 of the Convention. The main modifications aimed at clarifying the scope of articles 30 and 31 of the Convention, and the information necessary to activate the corresponding procedures.

The drafts were presented in Spanish only and will be translated before the next session of the Committee to enable the discussion and the adoption of the new forms.

13. Paulo David, Chief of the Capacity Building and Harmonization Section in the Human Rights Treaties Division, updated the Committee in a closed meeting on the treaty body strengthening process and provided the latest information and the main elements of the resolution being drafted for submission to the General Assembly. He provided also an assessment of the costs of the treaty bodies system stressing the complexity of the exercise as there are three different budgets involved: OHCHR, UNOG and DPI. He also

informed the Committee of the cost for one of its standard week of meetings. He singled out the importance of coherence among treaty bodies

### **C. Decisions**

14. The Committee decided on:

- a. A statement on the *ratione temporis* element in the review of reports submitted by States parties under the International Convention for the Protection of All Persons from Enforced Disappearance (included in annex IV);
- b. The adoption of the List of Issues on Germany and The Netherlands;
- c. The concluding observations on the reports submitted by Argentina and Spain under article 29, paragraph 1, of the Convention;
- d. The holding of a public thematic discussion on “enforced disappearance and military justice” during the sixth session;
- e. The posting on the website of a draft document on “the relationship of the Committee on Enforced Disappearances with National Human Rights Institutions” for comments by ICC and national human rights national institutions;
- f. The appointment of the country rapporteurs who will draft the Lists of Issues related to the reports of Belgium, Paraguay and Armenia and will lead the constructive dialogues with the State parties;
- g. The appointment of the rapporteur on communications
- h. The appointment of the rapporteur on follow-up to reports
- i. The appointment of the rapporteur on reprisals
- j. A reminder to be sent to those States parties that have not presented their report within two years after the entry into force of the Convention;
- k. The adoption of its fifth session informal report;
- l. The adoption of the provisional agenda of the sixth session of the Committee (included in annex V).

### **D. Future Sessions**

15. In accordance with the calendar of conferences adopted by the General Assembly, the Committee confirmed the dates of its sixth session, to be held from 17 to 28 March 2014, at the Office of the High Commissioner for Human Rights, in Geneva.



### III. CONSIDERATION OF REPORTS

#### A. Argentina

16. On 4 and 5 November the Committee considered the report of Argentina in public session and, before that, met with civil society to receive information in this regard. Argentina was represented by a high level delegation headed by His Excellency Mr. Juan Martín Fresneda, Secretary of Human Rights, Ministry of Justice and Human Rights of Argentina; and composed by several representatives of the State party, including Mr. Federico Villegas Beltran, Minister, Director General for Human Rights, Ministry of Foreign Affairs, Mr. Alberto D'Alotto, Ambassador, Permanent Representative of Argentina to the United Nations Office at Geneva, Ms. Ana Oberlin, Director of International Legal Affairs, Secretariat of Human Rights, Ministry of Justice and Human Rights of Argentina, Mr. Jorge Auat, Public Prosecutor's Office; and members of the Permanent Mission in Geneva.

The Committee stressed the highly symbolic moment of Argentina reporting to the Committee considering the role that the country had in the draft, adoption and entry into force of the International Convention on the Protection of All Persons from Enforced Disappearance.

The main issues discussed during the constructive dialogue were:

- Hierarchy of the Convention in domestic law and direct applicability of its provisions;
- Consultations with civil society in preparation of the State report;
- Status of limitations of the crime of enforced disappearance;
- Measures taken to guarantee that persons accused of committing enforced disappearances cannot influence investigations;
- Definition of victim;
- Definition of enforced disappearance under domestic law;
- Access to information concerning enforced disappearances;
- Effective investigation of cases of enforced disappearances;
- Large margin between maximum and minimum penalties for the offence of enforced disappearance;
- Inclusion of enforced disappearances in extradition and cooperation agreements;
- Due obedience as grounds for exemption from criminal liability;
- Non-refoulement;

- Habeas corpus: direct applicability of the constitutional provision and regulations;
- Registers of persons deprived of liberty;
- Training of State officials and education on the provisions of the Convention;
- Protection of victims, including women and children, and possibility of participating actively in investigations;
- Legal situation of disappeared persons: declaration of absence;
- Collective and individual reparations;
- Criminalization of wrongful removal of children and other related crimes in accordance with art. 25 of the Convention;
- Possibility to review and, where appropriate, to annul, adoptions that originated in an enforced disappearance; and
- Specific measures with respect to wrongful removal of children who are subject to enforced disappearance.

## **B. Spain**

17. On 5 and 6 November the Committee considered the report of Spain in public session and, before that, the Committee met with civil society to receive information in this regard. Spain was represented by a delegation headed by Her Excellency Ana Menéndez Pérez, Permanent Representative of Spain to the United Nations Office and other International Organisation in Geneva, and composed by several representatives of the State party, including Mr. Diego Loma Osorio and José Luis Viada, State Attorneys, Ministry of Justice; Mr. José Manuel Ansean Fernández, Inspector-Chief of the Disappearances Group of the Judicial Police General Police Station, Ministry of Interior; Mr. Oscar Esteban, Civil Guard Commander Attached to the Judicial Police, Ministry of Interior; Mr. Pedro Martínez Torrijos, National Public Prosecutor; and members of the Permanent Mission in Geneva, including its Deputy Permanent Representative His Excellency Victorio Redondo Baldrich.

The main issues discussed during the constructive dialogue were:

- Direct applicability of the Convention;
- Consultations with civil society in preparation of State report;
- Content and validity of the 2008 National Plan on Human Rights;
- Lack of specific provision establishing that no circumstances whatsoever may be invoked as a justification for enforced disappearance;
- Lack of autonomous crime of enforced disappearance;
- Adequacy of criminal provision on crimes against humanity with the Convention and relevant international law;
- Criminal responsibility of superiors;

- Status of limitations of the crime of enforced disappearance;
- Possibility of military jurisdiction with regard to the investigation and prosecution of cases of enforced disappearance;
- Measures taken to ensure protection of witnesses;
- Measures taken to guarantee that persons accused of committing enforced disappearances cannot influence investigations;
- Framework to investigate cases of enforced disappearances, including the existence of a specific investigative unit;
- Progress made in the investigation of cases of enforced disappearances which allegedly took place in the past;
- Compatibility of the 1977 amnesty law with ICCPR and ICPPED, in particular with the obligation to investigate;
- |- Possible deterrent effect that the criminal procedure carried out against a former National Judge who initiated an investigation concerning enforced disappearances allegedly occurred in the past may have on future investigations concerning the same crimes;
- Applicability of the principle *aut dedere aut judicare* according to the current legal framework;
- Lack of specific provision stipulating that enforced disappearance shall not be regarded as a political offence and lack of specific inclusion of enforced disappearances in a recent extradition agreement with another State party;
- Alleged lack of full cooperation with judicial authorities of another State party to the Convention with regard to enforced disappearances which took place in the past in Spain;
- Access of victims to archives;
- Non-refoulement;
- Incommunicado detention, including restrictions to rights recognised by the Convention;
- Habeas corpus: possibility of suspension during times of war or emergency;
- Functions of the NHRI (Defensor del Pueblo) as National Preventive Mechanism;
- Registers of persons deprived of liberty;
- Training of State officials and education on the provisions of the Convention;
- Rights and definition of victim in domestic law;
- Legal situation of disappeared persons: declaration of absence or death;
- Right to the truth;
- Obstacles in the search for persons who may have been the victims of enforced disappearance;
- Reparations according to domestic law;
- Criminalization of wrongful removal of children and other related crimes in accordance with art. 25 of the Convention; and

- Investigation of cases of the removal of children that may have occurred in the past.

### **C. Adoption of Concluding Observations**

18. The Committee adopted the concluding observations on Argentina and Spain on 13 November 2013.

19. The concluding observations on Argentina can be found under the reference CED/C/ARG/CO/1.

20. The concluding observations on Spain can be found under the reference CED/C/ESP/CO/1.

## **IV. ADOPTION OF LIST OF ISSUES**

### **A. Germany**

21. On 11 November 2013 the Committee adopted the List of Issues on Germany.

### **B. The Netherlands**

22. On 12 November 2013 the Committee adopted the List of Issues on The Netherlands.

## **V. THEMATIC DISCUSSION**

### **Enforced disappearance and military justice**

23. On 12 November 2013, the Committee held in closed meeting a thematic discussion on “enforced disappearance and military justice”. The Chairperson, Mr. Emmanuel DECAUX, gave a brief overview of the discussion on military justice in recent human rights instruments and reports. Mr. Alvaro GARCÉ GARCÍA Y SANTOS gave an account of enforced disappearance and military justice in Latin America focusing on the jurisprudence of the Inter-American Court of Human Rights. The presentation was followed by a discussion among members focusing, inter alia, on the issue of impunity. The Committee decided to hold a public discussion on this issue during the sixth session.

## **VI. RELATIONS WITH STAKEHOLDERS**

### **A. Meeting with Member States**

24. On 7 November 2013, the Committee held a public meeting with Member States of the United Nations, which was attended by eighteen States parties, seven signatory States, and seven States which have neither signed nor ratified the Convention. The Chairperson gave a brief presentation of the activities of the Committee since the last session. Several member states praised the Committee for its work. Uruguay thanked the Committee for its useful concluding observation. Mexico informed that the report to the Committee is being finalized, that the State is considering recognizing the Competence of the Committee under art. 31 and 32 of the Convention and that it is considering inviting the Committee for a visit. Other states asked clarifications on the respective roles of the Committee and the CED as well as on the average number of reports considered per session. A list of participants is included in annex VI.

### **B. Meeting with the Working Group on Enforced or Involuntary Disappearances**

25. On 7 November 2013, the Committee held in closed session its third yearly meeting with the WGEID. During the meeting, the Working Group and CED exchanged information on the respective activities carried out since the last meeting, including visits already carried out or being planned. Coordination, cooperation and partnership were discussed in regard to several areas, including the treatment of urgent actions. The experts identified as common areas of thematic interest military tribunals, enforced disappearance in armed conflict and the difference between missing and enforced disappearance persons. They agreed to issue a joint statement on the content of the meeting and on the date of next yearly meeting which will take place in September 2014. The joint statement is included in annex VII.

26. On 8 November 2013, three members of the Committee participated in the thematic discussion on “enforced disappearances and economic, social and cultural rights” held by the WGEID which reflected on the impact and the relationship between them.

### **C. Meeting with other United Nations human rights mechanisms and intergovernmental organizations**

27. On 14 November 2013, the Committee held in a closed session with the Working Group on Arbitrary Detention. Members of both mechanisms shared and exchanged their experience in dealing with cases of arbitrary detention and enforced disappearance, highlighting some commonalities and differences in their working methods and practice. The experts were of the opinion that cooperation and coordination among the various mechanisms is vital and agreed to discuss the issue of military justice in March 2014. The WGAD recalled that it was mandated by the Human Rights Council by resolution A/HRC/RES/20/16 to draft basic principles and guidelines on remedies and procedures on “the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention and order his or her release if the detention is not lawful”. In relation to this resolution and the mandate to seek views of UN treaty bodies in drafting the basic principles and guidelines, the WGAD invited the Committee to provide an input.

28. On 11 November 2013, the Committee met in a closed session with the International Committee of the Red Cross. The experts discussed issues related to the handling of information of disappeared persons and forensic sciences. Members of the Working Group on Enforced or Involuntary Disappearances also attended the meeting. Ms. Anne-Marie La Rosa, ICRC legal adviser, opened the meeting stressing the importance of cooperation of all entities involved in the search of disappeared persons, each bringing its specific contribution. Ms. Marianne Pecassou, Head of the unit on missing persons and restoration of family links and Massimo Marelli, Head of project and protection of data, presented the current work of ICRC and its protocol on the search of disappeared persons and the handling of confidential data keeping in mind the concern of the protection of sources. Mr. Morris Tidball-Binz, Head of ICRC forensic unit, focused on the evolution of the forensic science, its contemporary relevance for humanitarian purposes which is more and more oriented to the identification of victims rather than to the identification of causes of death for criminal prosecution. The presentations were followed by a Q&A session which highlighted the underlining dilemma of the humanitarian purpose of finding victims and the research for justice, investigation and truth as well as the dilemma of balancing confidentiality of data and publicity for awareness purposes.

#### **D. Meeting with national human rights institutions**

29. On 14 November 2013, the Committee met with the Geneva representative of the International Coordinating Committee of National Human Rights Institutions, Ms. Katarina Rose, to discuss cooperation. Mr. Lawrence

M. Mushwana, the Chair of the ICC, delivered his statement to the Committee through a video message. In his statement, he recognized the important role of treaty bodies in promoting and monitoring the implementation of human rights standards, and stressed that Paris Principles compliant NHRIs play a unique role in the implementation of treaty body recommendations at the national level. With regard to the paper being drafted on the cooperation between the Committee and NHRIs, he suggested that it takes into account the distinct and complementary role of NHRIs, that it ensures NHRIs' effective participation at all stages of the Committee's work and that it considers how the Committee could be more accessible to national-level actors. Mr. Emmanuel Decaux, Chairperson of the Committee, also made a statement in which he gave an overview on the practice of NHRIs with regard to their participation in the consideration of State parties' reports. He also addressed the diversity among NHRIs and various procedures in which NHRIs can play a crucial role in providing information or acting as guardians protecting victims against reprisals. Afterwards, Ms. Katharina Rose echoed many points that had been addressed by the Chair of the ICC and by Mr. Emmanuel Decaux. She suggested that NHRIs could provide an alternative report in case of absence of a state report and welcomed the opportunities for NHRIs to contribute in country visits and individual communications. The statements were followed by comments of members of the Committee.

#### **E. Meeting with non-governmental organizations and associations of victims**

30. On 7 November 2013, the Committee held a public meeting with non-governmental organizations (NGOs). The dialogue focused on the issue of reprisal, the footwork needed for ratification especially in Asia and recent initiatives taken in this regard. A list of participants is included in annex VI.

31. On 14 November 2013, the Committee adopted in public the document "The Relationship of the Committee on Enforced Disappearances with civil society actors". Its draft had been previously made available on the Committee's website in order to invite comments from all those who had an interest. The document will be soon available under the reference CED/C/5.

## ANNEXES

### Annex I

#### States parties to the Convention at the time of the fifth session and deadline for reporting

	State Party	Ratification	Entry into force	Deadline for reporting under Art. 29(1)	Reports submitted
1	<b>Albania*</b>	8 Nov. 2007	23 Dec. 2010	23 Dec. 2012	
2	<b>Argentina*</b>	14 Dec.2007	23 Dec. 2010	23 Dec. 2012	21 Dec 2012
3	<b>Mexico</b>	18 Mar. 2008	23 Dec. 2010	23 Dec. 2012	
4	<b>Honduras</b>	1 Apr. 2008	23 Dec. 2010	23 Dec. 2012	
5	<b>France*</b>	23 Sept. 2008	23 Dec. 2010	23 Dec. 2012	21 Dec 2012
6	<b>Senegal</b>	11 Dec. 2008	23 Dec. 2010	23 Dec. 2012	
7	<b>Bolivia</b>	17 Dec. 2008	23 Dec. 2010	23 Dec. 2012	
8	<b>Cuba</b>	2 Feb. 2009	23 Dec. 2010	23 Dec. 2012	
9	<b>Kazakhstan</b>	27 Feb.2009	23 Dec. 2010	23 Dec. 2012	
10	<b>Uruguay*</b>	4 Mar. 2009	23 Dec. 2010	23 Dec. 2012	4 Sept 2012
11	<b>Mali*</b>	1 Jul. 2009	23 Dec. 2010	23 Dec. 2012	
12	<b>Japan*</b>	23 Jul. 2009	23 Dec. 2010	23 Dec. 2012	
13	<b>Nigeria</b>	27 Jul. 2009	23 Dec. 2010	23 Dec. 2012	
14	<b>Spain*</b>	24 Sep. 2009	23 Dec. 2010	23 Dec. 2012	26 Dec. 2012
15	<b>Germany*</b>	24 Sep. 2009	23 Dec. 2010	23 Dec. 2012	25 Mar 2013
16	<b>Ecuador*</b>	20 Oct. 2009	23 Dec. 2010	23 Dec. 2012	
17	<b>Burkina Faso</b>	3 Dec.2009	23 Dec. 2010	23 Dec. 2012	
18	<b>Chile*</b>	8 Dec.2009	23 Dec. 2010	23 Dec. 2012	
19	<b>Paraguay</b>	3 Aug. 2010	23 Dec. 2010	23 Dec. 2012	28 Aug 2013
20	<b>Iraq</b>	23 Nov. 2010	23 Dec. 2010	23 Dec. 2012	
21	<b>Brazil</b>	29 Nov. 2010	29 Dec.2010	29 Dec.2012	
22	<b>Gabon</b>	19 Jan. 2011	19 Feb. 2011	19 Feb. 2013	
23	<b>Armenia</b>	24 Jan. 2011	24 Feb. 2011	24 Feb. 2013	14 Oct 2013
24	<b>Netherlands*</b>	23 Mar. 2011	23 Apr. 2011	23 Apr. 2013	11 Jun 2013
25	<b>Zambia</b>	4 Apr. 2011	4 May 2011	4 May 2013	
26	<b>Serbia*</b>	18 May 2011	18 Jun. 2011	18 Jun. 2013	
27	<b>Belgium*</b>	2 Jun. 2011	2 Jul. 2011	2 Jul. 2013	8 Jul 2013
28	<b>Panama</b>	24 Jun. 2011	24 Jul. 2011	24 Jul. 2013	
29	<b>Tunisia</b>	29 Jun. 2011	29 Jul. 2011	29 Jul. 2013	
30	<b>Montenegro*</b>	20 Sept. 2011	20 Oct. 2011	20 Oct. 2013	
31	<b>Costa Rica</b>	16 Feb. 2012	16 Mar. 2012	16 Mar. 2014	
32	<b>Bosnia and Herzegovina*</b>	30 Mar. 2012	30 Apr. 2012	30 Apr. 2014	
33	<b>Austria*</b>	7 Jun. 2012	7 Jul. 2012	7 Jul. 2014	
34	<b>Colombia</b>	11 Jul. 2012	11 Aug. 2012	11 Aug. 2014	
35	<b>Peru</b>	26 Sept.2012	26 Oct. 2012	26 Oct. 2014	
36	<b>Mauritania</b>	3 Oct.2012	3 Nov. 2012	3 Nov. 2014	
37	<b>Samoa</b>	27 Nov. 2012	27 Dec. 2012	27 Dec. 2014	
38	<b>Morocco</b>	14 May 2013	13 Jun 2013	14 Jun 2015	
39	<b>Cambodia</b>	27 Jun 2013	27 Jul 2013	27 Jul 2015	
40	<b>Lithuania*</b>	14 Aug 2013	13 Sept 2013	14 Sept 2015	

States marked with an asterisk (\*) have made declarations recognizing the competence of the Committee under articles 31 and/or 32 of the Convention. The full text of declarations and reservations made by States Parties can be found at the following link:

[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-16&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&lang=en)



## Annex II

### Membership of the Committee on Enforced Disappearances

<b>Name</b>	<b>Nationality</b>	<b>Term expires</b>
Mr. Mohammed AL-OBAIDI	Iraq	30 June 2017
Mr. Mamadou Badio CAMARA	Senegal	30 June 2015
Mr. Santiago CORCUERA CABEZUT	Mexico	30 June 2017
Mr. Emmanuel DECAUX	France	30 June 2015
Mr. Alvaro GARCÉ GARCÍA Y SANTOS	Uruguay	30 June 2015
Mr. Luciano HAZAN	Argentina	30 June 2017
Mr. Rainer HUHLE	Germany	30 June 2015
Ms. Suela JANINA	Albania	30 June 2015
Mr. Juan José LÓPEZ ORTEGA	Spain	30 June 2017
Mr. Kimio YAKUSHIJI	Japan	30 June 2017

### **Annex III**

#### **Adopted agenda of the fifth session of the Committee on Enforced Disappearances**

1. Opening of the session, in accordance with article 26, paragraph 7, of the International Convention for the Protection of All Persons from Enforced Disappearance.
2. Minute of silence in remembrance of victims of enforced disappearances.
3. Adoption of the agenda.
4. Communications, requests for urgent actions and information received by the Committee.
5. Matters related to the methods of work of the Committee:
  - a. Methods of work related to articles 32, 33 and 34 of the Convention;
  - b. Interaction with relevant stakeholders;
  - c. Ratification strategy and other matters.
6. Consideration of reports of States parties to the Convention.
7. Thematic discussion on “enforced disappearance and military justice”.
8. Meeting with Member States of the United Nations.
9. Meeting with United Nations agencies and mechanisms, and intergovernmental organizations.
10. Yearly meeting with the Working Group on Enforced or Involuntary Disappearances.
11. Meeting with national human rights institutions.
12. Meeting with non-governmental organizations and other stakeholders.
13. Provisional agenda for the sixth session.
14. Treaty body strengthening update.

## Annex IV

### **Statement on the *ratione temporis* element in the review of reports submitted by States parties under the International Convention for the Protection of All Persons from Enforced Disappearance**

The Committee on Enforced Disappearances,

Considering the relevant provisions of the Vienna Convention on the Law of treaties of 1969,

Bearing in mind the object and purpose of the International Convention for the Protection of All Persons from Enforced Disappearance (thereafter, the Convention),

Recalling the Preamble of the Convention which declares that States Parties are determined ‘to combat impunity for the crime of enforced disappearance’ and reaffirms ‘the right of victims to justice and to reparation’ and ‘the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end’,

Taking into account the definition of Article 24(1) which stresses that ‘for the purpose of this Convention, “victim” means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance’,

Recalling the very nature of enforced disappearance as a continuous crime,

Recalling Article 35(2) that ‘[i]f a State becomes a party to this Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned’,

Underlining that according to Article 37, ‘[n]othing in this Convention shall affect any provisions which are more conducive to the protection of all persons from enforced disappearance and which may be contained in: (a) the law of any State; (b) International law in force for that State’,

Taking note of Article 29(1) that requires that ‘each State party shall submit to the Committee ‘... 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’,

Desirous of clarifying the scope of its functions *ratione temporis*, in order to provide consistency, predictability and legal security for States parties as well as for victims, states the following:

1. The Committee is bound by Article 35 in the exercise of its competence and cannot adjudicate individual cases concerning enforced disappearances as such which commenced before the entry into force of the Convention for the State concerned;
2. Article 29 deals with the “obligations under this Convention”, in the light of the “international law in force for this State party” and request that the reporting process take into consideration the full range of its obligations today;

3. 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;

Nothing in this declaration precludes the character erga omnes of the State's obligations under the Convention as well as the universal jurisdiction of domestic Courts or the scope of Article 42 on international settlement of disputes.

## **Annex V**

### **Items to be included in the provisional agenda of the sixth session of the Committee**

1. Opening of the sixth session.
  2. Minute of silence in remembrance of victims of enforced disappearances.
  3. Adoption of the agenda.
  4. Communications, requests, including requests for urgent actions, and other information received by the Committee.
  5. Matters related to the methods of work of the Committee:
    - a. arts. 31, 32, 33 and 34;
    - b. interaction with stakeholders;
    - c. strategy for ratification.
  6. Consideration of reports of States parties to the Convention:
    - a. Germany
    - b. The Netherlands
  7. Consideration of the list of issues related to the report of Belgium and Paraguay.
  8. Public thematic discussion on “enforced disappearance and military justice”.
  9. Meeting with United Nations Member States.
  10. Meeting with United Nations agencies and mechanisms, and intergovernmental organizations.
  11. Meeting with National Human Rights Institutions.
  12. Meeting with non-governmental organizations and other stakeholders, including associations of families of victims.
  13. Treaty-body strengthening update.
  14. Provisional agenda for the seventh session.
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## **Annex VI**

### **List of participants**

#### **Meeting with Member States**

Argentina  
Austria  
Bolivia  
Brazil  
Chile  
Colombia  
Ecuador  
France  
Germany  
India  
Indonesia  
Italy  
Lithuania  
Macedonia  
Mexico  
Montenegro  
Morocco  
Pakistan  
Peru  
Qatar  
Russian Federation  
Saudi Arabia  
Serbia  
Spain  
Sweden  
Thailand  
Timor Leste  
Togo  
Tunisia  
Ukraine  
Uruguay  
Venezuela

## **Meeting with other United Nations human rights mechanisms and intergovernmental organizations**

International Committee of the Red Cross

Working Group on Enforced or Involuntary Disappearances

Working Group on Arbitrary Detention

## **Meeting with National Human Rights Institutions**

International Coordinating Committee for National Human Rights Institutions (ICC)

## **Meeting with NGOs**

Helsinki Foundation for Human Rights

Alkarama

ICAED

FIACAT

Geneva for Human Rights

International Service for Human Rights (ISHR)

Asian Federation Against Involuntary Disappearances (AFAD)

## **Annex VII**

### **Joint statement: third annual meeting of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances**

The third annual meeting of the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances took place in Geneva on Thursday, 7 November 2013.

During the meeting, the members of the two United Nations expert bodies working on the issue of enforced disappearance continued discussions on the complementarity of their procedures, in particular regarding urgent actions. The experts highlighted the need to continue and make their coordination of activities more effective with a view to strengthen efforts to combat enforced disappearances with a victim-centred perspective.

The experts reiterated their strong support to civil society and their vigilance to any form of intimidation and reprisals against civil society actors and families of disappeared persons. They welcomed the decision of the Human Rights Council to request the Secretary-General to designate, in cooperation with the United Nations High Commissioner for Human Rights, a United Nations-wide senior focal point on reprisals and intimidation against those who cooperate with the UN in the field of human rights.

Also during the meeting both expert bodies exchanged information on past activities, including on country visits and the review of State parties, and agreed on continuous cooperation to coordinate their agendas, including on thematic priorities.

Furthermore, the experts highlighted the need to continue working collectively to achieve universal adherence to the International Convention for the Protection of All Persons from Enforced Disappearance and recognition of the competence of the Committee to receive individual and inter-State complaints.