

A guide to the International Convention  
for the Protection of All Persons  
from Enforced Disappearance

**Art.**

111

**“No one shall  
be subjected to  
enforced disappearance”**





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Manifestation of family members in their fight against enforced disappearances in Dyarbakir, Turkey

This is a publication of *Aim for human rights* in support of the campaign for ratification of the International Convention for the Protection of all Persons from Enforced Disappearances.

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**Photo front:** Manifestation against enforced disappearances in El Salvador



a member of



INTERNATIONAL COALITION  
AGAINST ENFORCED DISAPPEARANCES

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## Abbreviations

AFAD	Asian Federation Against Involuntary Disappearance
Convention	International Convention for the Protection of All Persons from Enforced Disappearance
Committee	Committee on Enforced Disappearances to be created once the Convention enters into force
Disappeared	Person subjected to enforced disappearance (also referred to as disappeared detainee or desaparecido)
FEMED	Euro-Mediterranean Federation of Relatives of Disappeared People
FEDEFAM	Latin American Federation of Associations of Relatives of Disappeared Detainees
GA	General Assembly of the United Nations
ICAED	International Coalition against Enforced Disappearance
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
NGO	Non-Governmental Organization
OAS	Organization of American States
UN	United Nations
UNWGEID	United Nations Working Group on Enforced or Involuntary Disappearance



***You are invited to join the campaign for the Convention which has one final destination: “Never again!”.***

## **PREFACE**

### **Protests lead to International Convention**

The enforced disappearance of persons has been practiced since the mid 20th century. Despite many efforts stoppage did not happen and the practice continued to spread up to this very day. Relatives of the disappeared (also referred to as disappeared-detainees, or desaparecidos) protested and said: “No, this cannot go on any longer!”. This appeal culminated with the approval in 2006 by the United Nations of the International Convention for the Protection of all Persons from Enforced Disappearance.

The task ahead is to make this Convention fully operative. As many States as possible need to deposit their ratifications with the UN Secretary General. Unless governments, courts and legislative bodies implement the Convention with all its provisions, enforced disappearances will continue to occur. The task ahead will not be easy. In order to be fully effective, the Convention raised the bar to the highest possible level of international human rights law and practice. On the other hand, the threshold definition has been lowered so as to be inclusive of all enforced disappearances with no possible loop-holes.

### **A people’s Convention**

In the human rights world, this treaty is unique, and has been referred to as a ‘people’s Convention’. Academia contributed as well as international human rights NGOs and experts. But the driving force behind it have been the relatives of the disappeared from the different continents, and their supporting networks from civil society. Consequently, we are aware of the need of “all hands on deck” to be also successful at this final stage of implementation.

Once the Convention becomes operative, people will be guaranteed the right not to be disappeared. All possible victims, including next-of-kin, are mentioned in the text, and the practice is criminalized in such a way that, if fully implemented, there will be no safe haven for perpetrators in the world.

Each State needs to be convinced on its utility, and strong advocacy is needed to seal their commitment with ratification. To realize as many ratifications as possible, and as soon as possible, the International Coalition against Enforced Disappearance (ICAED), was founded in 2007. It brings together both human rights NGOs and associations of families of the disappeared from all over the world to campaign for the Convention.

### **Road map for the campaign**

It is true of course that the occurrence of enforced disappearances happens far from TV cameras. With few exceptions, the issue scarcely figures in the media. We therefore have to work as creatively as possible to get the message out to the general public, and to move from the grass roots up in order to secure our objectives.

With this in mind, this publication was prepared to inform you on the Convention. There are technical terms included although we have tried to make it as simple as possible. It is both a much needed primer, and a road map to guide you on the campaign trail to put an end to enforced disappearances.

***Your interest and support is needed!***

# Protection from enforced disappearances

## THE CRIME OF ENFORCED DISAPPEARANCE

Enforced disappearances constitute an extreme violation of human rights, infringing many fundamental rights. Furthermore, not only is the person affected who becomes the direct victim, but also his or her family, colleagues and friends as well as society as a whole. This chapter looks at some of the key concepts involving enforced disappearances.

### What is an enforced disappearance?

The essence of enforced disappearances is the deprivation of someone's personal freedom by agents of the State, followed by the refusal to provide information on the fate or the whereabouts of the person. This places the victim completely beyond the protection of law.

Three constitutive elements characterise this grave human rights violation:

- **Deprivation of liberty**

Enforced disappearance always begins with the deprivation of liberty of a person (it may be, for instance, by abduction, an arrest or a detention).

- **Direct or indirect involvement of State agents**

Enforced disappearance is carried out by State authorities (for instance, the police or members of the army) or people acting with the support, tolerance or acquiescence of State authorities (for instance, paramilitary groups).

- **Denial by authorities**

After the deprivation of liberty has taken place, authorities refuse to acknowledge that fact and conceal the fate and whereabouts of the disappeared. Often, relatives who search for their disappeared loved one have to go through harassment, threats, attacks, and, in some cases, also defamation and attempts of bribery or extortion.

As time passes, fewer are the possibilities of finding the disappeared alive. Their family, friends, and colleagues experience anguish, frustration, and anger which, most often, have to be endured in silence. The death of that loved one cannot even be mourned as that would mean all hope has been abandoned. The relatives of the disappeared cherish fond memories while they wrestle with unanswered questions in their search.

### Enforced disappearance and the missing

Missing is a general term covering diverse situations including enforced disappearances:

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*“My uncle Lay Pin Leong, cousin Lai Siu Xian and brother in-law Leong Yun Fa were taken and we never saw them again. Later I was told that they had been killed. We do not know what they did with the bodies and whether or not they were thrown in the ocean”.* Testimony to the Truth and Reconciliation Commission in Timor-Leste Final Report, Chegal, chapter 7.2, para. 159

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- Voluntary disappearances, where persons hide by their own free will and decide not to inform about their fate and whereabouts.
- Persons unaccounted for due to accidents, natural disasters or armed conflicts.
- The common crime of kidnapping, listed in all criminal codes, whereby someone is disappeared often for purposes of ransom.
- Enforced disappearances, where the victim is made to disappear with involvement of the State.

### Enforced disappearance is a violation of several human rights

According to survivors testimonies and reliable reports, the disappeared are usually incarcerated in clandestine detention facilities, deprived of human dignity, are interrogated and subjected to torture. In many cases they are clandestinely executed and their bodies destroyed in different ways. All traces of the disappeared are lost to the outside world and his/her very existence may even come to be denied.

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*“The phenomenon of disappearances is a complex form of human rights violation that must be understood and confronted in an integral way. ... The forced disappearance of human beings is a multiple and continuous violation of many rights ...”.* Inter-American Court of Human Rights Velásquez Rodríguez v. Honduras, Judgement 29 July 1988

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Enforced disappearances violate many fundamental human rights, such as:

- Right to life;
- Rights to personal integrity;
- Right to protection by law;
- Right not to be arbitrarily deprived of one's liberty;
- Right to recognition of one's legal personality;
- Right not to be subjected to torture, cruel, inhuman or degrading treatment.

Enforced disappearance can also represent an attack on the rights of the family and of the child, freedom of thought and of expression, religion, association and of the general prohibition on all forms of discrimination.

Prevention of enforced disappearance is crucial because it also prevents the abovementioned embedded grave human rights violations.

### First systematic disappearances: World War II

The practice of enforced disappearances first occurred in Europe during World War II when, after arrest, thousands of people were secretly transferred to Germany from the occupied territories in accordance with a decree known as *Nacht und Nebel* ("Night and Fog"), issued on 7 December 1941 by the Führer Adolf Hitler.

In the second half of the 20th century, enforced disappearances became a tool for political repression not only for military dictatorships but also in semi democratic regimes, and emerged as a phenomenon affecting Latin America and the Caribbean. Since then its practice has extended to other regions of the world, namely to Europe, Middle East, Africa and Asia. Furthermore, the phenomenon has become global now as there is strong evidence that it is being practiced in the current war on terrorism.

The UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) received reports of disappearances from close to hundred countries.

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*"The Führer thinks that in the case of offences against the Reich, life imprisonment, even life imprisonment with hard labor, is regarded as a weakness. An effective and lasting deterrent can be achieved only by the death penalty or by taking measures which leave the family and the population uncertain of the fate of the offender. The deportation to Germany serves this purpose."* Letter of Field Marshal Wilhelm Keitel, Chief

German Armed Forces High Command, 1941

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### Enforced disappearance of children

The enforced disappearances of children, taken either with their parents or born during the captivity of their mothers, form another tragic example of the practice. In some countries those babies were handed over for appropriation by parents, some themselves perpetrators, through illegal national and international adoptions. Thousands of such cases happened in Spain under the regime of Francisco Franco. Other notorious instances are Argentina, El Salvador and Guatemala. In recent years the disappearance of street children with the involvement of law enforcement officers, as part of social cleansing programmes, has given additional reasons for concern.



### COUNTRIES WHERE DISAPPEARANCES HAVE BEEN REPORTED ACCORDING TO THE UNWGEID:

*Afghanistan Algeria Angola Argentina Bahrain Bangladesh Belarus Bhutan  
Bolivia Brazil Burundi Cambodia Cameroon Chad Chile China Costa Rica Colombia the  
Democratic Republic of Congo Cyprus Democratic People's Republic of Korea Dominican Republic  
Ecuador Egypt El Salvador Equatorial Guinea Eritrea Ethiopia France the Former Yugoslavia Gambia  
Georgia Greece Guatemala Guinea Haiti Honduras India Indonesia the Islamic Republic of Iran Iraq  
Israel Italy Japan Jordan Kuwait Lebanon the Libyan Arab Jamahiriya Mauritania Mexico Morocco  
Montenegro Mozambique Myanmar Namibia Nepal Nicaragua Nigeria Pakistan Panama Paraguay  
Peru the Philippines the Russian Federation Rwanda Saudi Arabia Serbia Seychelles Spain Sri Lanka  
Sudan the Syrian Arab Republic Tajikistan Thailand Timor-Leste Togo Turkey Uganda Ukraine United  
Arab Emirates United States of America Uruguay Uzbekistan Venezuela Viet Nam Yemen Zimbabwe  
Palestinian Occupied Territories*

### States are responsible for enforced disappearances

Why do governments tolerate or implement such a cruel form of repression which goes against all laws? Usually the practice of enforced disappearance is carried out by State agents in the context of a State policy to repress members

Prevention of enforced disappearance is crucial because it also prevents other human rights violations.

of insurgent movements or, more generally, political opponents and their supporters in such a way that they can violate law with total impunity. Governments who want to maintain their power at all costs, are tempted to resort to such a practice in order to make their opponents vanish. Most of the disappeared in different countries are persons who are critical of their governments. They include trade unionists, teachers, students, cultural workers, members of ethnic or religious minorities or leaders of political parties.

### Enforced disappearances in the 'war on terror'

In recent years, there has been a further variation of the phenomenon.

Why do governments tolerate such a cruel form of repression which goes against all laws?

In the context of the global "war on terror", enforced disappearances operate at the transnational level. The need to gather intelligence from terrorist suspects has justified the practice of "extraordinary renditions". This means that a suspect of terrorism can be clandestinely abducted in one country and secretly transported to another, where he or she can be interrogated. Contrary to what happens in the traditional practice of enforced disappearances, here the fate and

the whereabouts of some of the victims may be disclosed after a period of time which may in fact be several years. However until that moment arrives, the family of the disappeared has no knowledge of the fate or whereabouts of their loved one, and authorities assume no accountability for the situation. It is a case of enforced disappearances which may become permanent.

### Non-State offenders

Even though States are traditionally responsible for human rights violations such as enforced disappearances, non-State offenders can carry out similar crimes, which also have to be dealt with. In certain countries for instance, enforced disappearances are carried out by paramilitary groups, acting with the support or tolerance of the State. In other conflictive situations, where insurgent groups (guerrillas) take on a quasi State role in a certain territory, repressive practices have been denounced similar to enforced disappearances. These acts make the borderline between responsibility for the "common" crime of kidnapping and the human rights violation of enforced disappearances a grey area.

"Reencuentro" of family members in Guatemala



### *“How did they know they didn’t arrest my son if they haven’t even asked me his name?”*

“Amine, my son who has disappeared, has always lived with my mother in Algeria. He’s lived in Baraki ever since. Well I hope he is still alive. It was January 30, 1997. It was Ramadan, he left while fasting. He had not eaten. I wonder if they gave him something to eat later? I’ve always said that it was January 30, 1997. I know from the policemen and gendarmes whom I asked to find my son. They told me themselves. “Yes, yes it was the day of the attack against the Wali (Prefect) in Baraki... We arrested many people that day.” A local chief of the police said to me: “Yes, we arrested at least 130 people, but not your son, no. He wasn’t arrested, No.” But I said to him: “How do you know you did not arrest my son?” And he said: “Because I personally interrogated all the people I arrest.” I said to him: “But how do you know you didn’t arrest my son if you haven’t even asked me his name?”

And he said: “Ah yes, quite so, what is his name?” I said his name is Amrouch Amine.

“Ah, Amrouch Amine, No! I haven’t arrested him. I haven’t taken him. He is not here. We don’t know him.”

One day I screamed. I was beside myself screaming because... I was convinced that the person whom I asked to help me, who would find my son, had said to me: “No, he’s non-existent.” And, I had often heard that word, non-existent. He’s non-existent.”



Nassera Dutour (on the right) and her mother

Extract from documentary about the disappearance of Amrouch Amine in Algeria, narrated by Nassera Dutour, ‘Y a Plus d’Amine’, by Omar D. and Felipe Canales, Paris, 2008.

#### **Victims of enforced disappearance**

Enforced disappearances cause several victims. Beside the direct victim, the disappeared, his or her family is subjected to such uncertainty as to constitute inhuman treatment. Society as a whole is deprived of the right to truth and can be coerced into a general state of fear. The heinous legacy of enforced disappearance lasts down the years. The fight against enforced disappearances is ongoing and transcends generations.

#### **Effects of enforced disappearance**

As time passes, fewer are the possibilities of finding the disappeared alive. Their family, friends, and colleagues experience anguish, frustration, and anger which, often, have to be

endured in silence. The death of that loved one cannot be mourned as that would mean all hope has been abandoned. Other effects:

- The disappeared is defenceless and at the mercy of captors, subjected to torture, often followed by the secret disposal of his or her body.
- Children of the disappeared are subjected to appropriations, illegal adoptions and child-trafficking. Their right to identity is often suppressed.
- Oftentimes the relatives of the disappeared, or those who assist them, become targets of attacks and harassment, running the risk of becoming themselves future disappeared.
- Relatives may experience grave economic



*“Midnight, our sons and daughters  
were cut down and taken from us.  
Hear their heartbeat...  
We hear their heartbeat.*

*In the wind we hear their laughter,  
in the rain, we see their tears.  
Hear their heartbeat...  
We hear their heartbeat*

*Night hangs like a prisoner,  
stretched over, black and blue.  
Hear their heartbeat...  
We hear their heartbeat.*

*In the trees our sons stand naked,  
through the walls our daughters cry.  
See their tears in the rainfall”.*

U2 The Mothers of the Disappeared, 1987

duress as the desaparecido oftentimes is the breadwinner. The family can also be subjected to discrimination and social stigma.

- Society as a whole can be invaded by a state of fear. If enforced disappearances happen on a widespread scale, more people will feel at risk of becoming the next desaparecido.

#### **Associations of relatives of the disappeared**

The families of the disappeared take on a primary role in responding to this crime both on a national and international level. In their search to know

Most of the disappeared are persons who are critical of their governments.

the fate and whereabouts of their loved ones, relatives organize themselves

creating local associations to make public their stories, and to demand accountability. Associations of relatives of disappeared now exist in many countries and some have combined their efforts in regional federations in order to make their voice heard on the world arena.

In 1981 FEDEFAM (Latin American Federation of Associations of Relatives of Disappeared – Detainees) was established with current members coming from Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, El Salvador, Guatemala, Honduras, México, Nicaragua, Panama, Paraguay, Peru and Uruguay. In more recent years, similar federations were created in other continents. Most notably, in 1998 AFAD (Asian Federation against

Involuntary Disappearance) was set up with representatives from India (Kashmir), Indonesia, Nepal, Pakistan, Thailand and the Philippines. In 2007 FEMED (Euro-Mediterranean Federation of Relatives of Disappeared People) was set up by associations in Algeria, Morocco, Lebanon and Turkey. Other long standing associations exist in other parts of Africa such as Western Sahara and the Kholoumani movement in South Africa. In Croatia, Serbia and Bosnia Herzegovina there are well organized federations of families of the missing whose activities are supported by the International Commission on Missing Persons (ICMP) with central offices in Sarajevo. In Belarus the work of the Civil Initiative We Remember has been an inspiration to many other victims. ■

# THE ROAD TO A NEW HUMAN RIGHTS TREATY TO STOP ENFORCED DISAPPEARANCE

On 20 December 2006 the Convention was finally approved by the UN General Assembly. A new universally legally binding instrument was born, and its text has become the legal basis in the fight to stop enforced disappearances. This chapter looks at the long road travelled.

## Initial reports of enforced disappearances

The first international organization that publicly denounced the practice of enforced disappearances was the Inter-American Commission on Human Rights in its report on Chile in October 1974. The UN also began at that time to consider cases of enforced disappearances in Chile, Cyprus and other countries which were not named. In December 1978 its General Assembly (GA) adopted Resolution 33/173 titled

for the increasing number of reports it was receiving from various parts of the world relating to the enforced or involuntary disappearances of people as “a result of excesses on the part of law enforcement or security authorities or similar organizations”. It also recognised the anguish and sorrow which “such circumstances cause to the relatives of disappeared” and requested governments to take action to fully investigate their whereabouts.

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*“Among the most relevant developments is the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, which is now open for signature, ratification and accession. I call on States to ratify this important treaty”.* Louise Arbour, former United Nations High Commissioner for Human Rights, 8th Session of the Human Rights Council, 3 June 2008

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## 1980 - UN Working Group on Enforced and Involuntary Disappearances (UNWGEID)

In following up the 1978 resolution of the General Assembly, the UN Commission on Human Rights established the UNWGEID in 1980 with the humanitarian mandate to form a channel of communication between families and the governments concerned, in order to ensure that individual cases, which families would bring to their attention, were investigated with the goal of clarifying the whereabouts of the disappeared. Since 1992, the mandate of the Working Group has been enlarged to monitor governmental policies on enforced disappearances. Its mandate is currently renewed on a three-yearly basis.



Domingo Rosales disappeared in Argentina

“Disappeared Persons” where it began to use the phrase “enforced or involuntary disappearances” to describe the practice for the first time. The General Assembly expressed its deep concern

## First steps towards the Convention

The first effort to promote the adoption of an international instrument against enforced disappearances was undertaken by the Paris Bar Association (Ordre des Avocats de Paris), and by other similar associations and experts from different countries who debated the question at the 1981 Paris Colloquium.

In 1982 at its Third Congress in Peru, FEDEFAM drafted a Convention on Enforced Disappearance, inspiring itself on the Convention on the Prevention and Punishment of the Crime of Genocide (1948), which it presented to the UN in 1983. UNWGEID published the text in its annual report (1984) but the UN took no further action.

In 1983, the OAS General Assembly declared that *“the practice of enforced disappearance in the Americas is an affront to the conscience of the Hemisphere and constitutes a crime against humanity”.*



Manifestation for the Convention in Morocco, 2009

The first steps towards the Convention on Enforced Disappearances date from 1981.

The Parliamentary Assembly of the Council of Europe adopted in 1984 a historical resolution in which enforced disappearance was defined as crime against humanity “incompatible with the ideals of any humane society” and a “flagrant violation of a whole range of human rights recognised in the international instruments on the protection of human rights.”

In 1986, a draft declaration was adopted by the First Colloquium on Enforced Disappearance in Bogotá, Colombia and sent to UNWGEID, and to

the UN Commission on Human Rights, insisting that a new treaty would be an important step forward by international human rights law towards addressing the issue.

In 1988 FEDEFAM and the Grupo de Iniciativa (a grouping of Argentine NGOs) studied the situation and further insisted that the UN should adopt an international convention against enforced disappearances.

**International initiatives and instruments preceding the Convention**

Over the last decades, several instruments were established to fight enforced disappearances. Even though the following initiatives still have great importance, all have their limitations.

**1992 - Declaration on the Protection of All Persons from Enforced Disappearances**

On 18 December 1992 the GA of the UN adopted the Declaration on the Protection of All Persons from Enforced Disappearance. The 1992 Declaration represented an important reference on enforced disappearances, as it affirmed, for the first time, at an international level, a number of fundamental principles (agreed definition of the offence, obligation to codify it as an autonomous offence under domestic criminal law, prohibition to grant amnesties or similar measures to people accused of enforced disappearance).

**1994 – Inter-American Convention on Forced Disappearance of Persons**

On 9 June 1994, the OAS General Assembly approved the Inter-American Convention on Forced

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*“This text has been negotiated in good faith and with a strong sense of responsibility by all who are conscious of the historic challenge that we face to end a shameful and indefensible practice. Everyone participated actively and, despite the inevitable tensions arising when negotiating such grave subjects, we have worked with much dignity. We had with us NGOs who have helped rather than criticized, among them associations of families of the disappeared who entrusted us with their testimony, shared their pain, but also their hopes. We have responded together, and all participants will remember the moments of great emotion which marked the conclusion of our work”.*

Ambassador Bernard Kessedjian, Chair, Working Group that drafted the Convention, in reporting address to the Human Rights Council, Geneva, 27 June 2006

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The son of Rebaat Vakhaeva disappeared on 1 August, 2000 in Chechnya

Disappearance of Persons, which entered into force on 28 March 1996. This first convention on enforced disappearances represented a significant development in human rights law because it recognizes that enforced disappearances is a continuous crime. It also imposes on States the obligation to codify it as a specific offence in national law, and excludes military or special tribunals from having competence to judge alleged perpetrators.

### 1998 - The Rome Statute of the International Criminal Court

On 18 July 1998 the Rome Statute for the Establishment of an International Criminal Court (ICC) was adopted and entered into force on 1 July 2002. It included, for the first time ever in international criminal law, enforced disappearances among the list of crimes against humanity “when committed as part of a widespread or systematic attack directed against any civilian population”.

### International jurisprudence on enforced disappearance

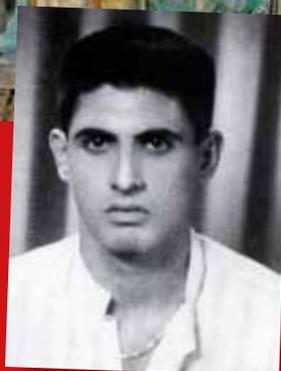
International courts, human rights treaty bodies and other mechanisms (African Commission on Human and Peoples’ Rights, European Court of Human Rights, Inter-American Court of Human Rights, and UN Human Rights Committee) have developed significant case law on enforced disappearances. Their jurisprudence has been of crucial importance for normative principles such as the ongoing nature of the crime, prohibition of amnesty laws or other impunity measures and the need to grant integral reparation to victims including relatives of the disappeared.

## WHY ALL THE EXISTING INTERNATIONAL INITIATIVES AND INSTRUMENTS ARE NOT ENOUGH?

- The UNWGEID lacks coercive power.
- The 1992 Declaration is not legally binding on governments and does not sufficiently address some key issues relating to enforced disappearance such as the minimum of information that should be provided to relatives and measures of reparation.
- The Inter-American Convention is binding only on those 13 Latin American States which have ratified it.
- The Inter-American Convention does not address key issues and has certain weaknesses on others. It does for instance not mention the right to truth nor the prohibition of secret detention.
- The Inter-American Commission and the Inter-American Court of Human Rights are entrusted only with limited competence by the 1994 Convention especially as concerns prevention.
- The 1998 Rome Statute comes within the general nature of international criminal law, and does not take into account the other dimensions of enforced disappearances as contemplated by international humanitarian and international human rights law. For example, it provides only for criminal prosecution of certain individuals but does not deal with prevention or other State obligations.
- The definition of enforced disappearances provided by the Rome Statute is equivocal as it refers to the imprecise concept of “political organization” as a possible actor, and introduces a fourth element as constitutive of the crime, “the intention to place the victim outside the protection of the law for a prolonged period of time”, which is formulated in an imprecise way and may well be impossible to prove in court.
- The competence of the International Criminal Court (ICC) is limited to determining if a person is guilty of enforced disappearances “committed as part of a widespread or systematic attack on the civilian population”, that is, as a crime against humanity.
- International human rights courts and treaty organs such as the UN Human Rights Committee, are competent only with respect of those States who have ratified the relevant treaties, and have expressly recognized their competence for accepting individual complaints.
- Decisions of the African Commission on Human and Peoples’ Rights and the Inter-American Commission on Human Rights are recommendations that cannot be obligated.
- The European and Inter-American Courts of Human Rights adopt binding sentences but do not possess coercive power to force their implementation as when specific measures of redress are ordered.
- International human rights mechanisms cannot determine individual responsibilities, and their faculties, in terms of prevention, are limited to requesting the adoption of necessary measures by the State concerned.
- With the exception of the 1994 Convention, enforced disappearances as such is not mentioned by any other applicable human rights treaty.
- The greatest limitation of Truth Commissions is that they do not have a judicial mandate.
- Usually Truth Commissions cannot clarify the fate and whereabouts of all individual ‘desaparecidos’.
- The work of the ICRC is limited to cases of people gone missing in situations of armed conflict.
- The ICRC is limited to international humanitarian law by mandate and does not deal with international criminal law nor with human rights law.
- The ICRC is strictly bound by confidentiality does not receive individual complaints, and cannot determine individual nor State responsibilities even for crimes against international humanitarian law.

## Testimony from Lebanon

*“My son’s disappearance, it’s like I am holding a burning coal in my hand. It hurts a lot, but I just can’t let go of it.”*



It is with a disconcerting sweetness that Sonia Eid says these words. There is no resentment in her voice; just a lot of despair. Suffering is etched in her face, a suffering which she lives daily since her son, Jihad, a Lebanese student, was kidnapped in 1990 by Syrian troops as they entered their neighborhood in Hadath in the suburbs of Beirut. He was 20 years old. His family found out that he had been injured in the leg and the shoulder, and that he had been made a prisoner, then taken to Syria.

His mother was able to see him only once in Syria. Just once in twelve years. She was not allowed to speak with him; just get a glimpse of him. He was in an interrogation – and torture – center. His mother saw him from a distance. He was tied to other detainees and stripped, “he was the seventh and he limped because of the injury to his leg”, she explains. At that moment, she was told, he was being “taken to be interrogated.”

That was in 1991. However for his family, it is as if it was only yesterday. Since that time, she has made numerous attempts to get him released, but to no avail. She also has paid a lot of money, just to be given the right to visit him, but again to no avail. She has received sporadic information over the years from former detainees in Syrian prisons who say they saw Jihad while in detention, but nothing too accurate and certainly nothing that is verifiable.

Testimony of Sonia Eid on the disappearance of her son Jihad Eid in Lebanon

### Truth Commissions

The struggle on a national level against enforced disappearances and other grave human rights violations in several countries has been carried out through the establishment of special bodies, known as truth commissions which are entrusted with the mandate of searching for truth and publicly reporting their findings. Over the past 27 years, over 40 different truth commissions have been established all over the world especially in countries re-establishing democratic governments after military dictatorships.

The UN Working Group (UNWGEID) since 1980 received over 60,000 cases from close to hundred States.

### ICRC and the missing

The International Committee of the Red Cross (ICRC) has a general mandate to address the issue of missing people in situations of armed conflict both of a national or international nature. Notably, the ICRC can visit prison camps and all detention facilities and search for the missing in special situations. The “right of families of the missing

to know the fate of their relatives” is contained in the First Additional Protocol to the Geneva Convention (1977) and was reinforced by the ICRC Missing Project. Since then ICRC has a specific programme dedicated to missing persons, and is developing much expertise in the area of forensic anthropology in order to identify the remains of the disappeared and other missing people.

### The Convention finally became a reality at the UN!

Despite considerable progress made by the international community in responding to enforced disappearances since 1978, the phenomenon continued to spread around the world. The UNWGEID since 1980 received over 60,000 cases from close to hundred States. More was needed to be done if ever the practice was to be stopped. The answer was to draft a specific treaty (or international convention) against enforced disappearances that would be universally and legally binding on States.



Commemoration of the disappeared in Parque Cuscatlan in El Salvador on 2 November, 2006

### 1998: Draft Convention

In 1998, following four years of debate and many consultative meetings with UN appointed experts and NGOs, the Sub-Commission for the Promotion and Protection of Human Rights adopted the “Draft International Convention for the Protection of All Persons from Enforced Disappearance”. This document, which became the basic reference text for subsequent developments, was drafted by the Sub-Commission’s Working Group on the Administration of Justice, chaired by French expert Louis Joinet, who from the Paris Colloquium (1981) onwards has contributed immensely with his expertise and counsel to achieving the successful passage of the Convention.

In 2001 when the UN Commission on Human Rights finally studied the “Joinet Draft”, a resolution was adopted to appoint a special expert to study if there was really the need for a new treaty on enforced disappearances, and to report back to the Commission the following year.

*“... Today will become a memorable day for the relatives of the disappeared from all over the world, as it represents the climax of a long struggle to obtain an international convention against enforced disappearance. [...] We would like to point out that, even if this Convention contains certain references that we would have preferred not to have been included, nevertheless it fundamentally presents those clear, direct and coherent means needed to prevent and eradicate enforced disappearances. This is the reason for our being so moved and happy today. The task completed has not been easy for state representatives, NGOs, and relatives of the disappeared, however, we firmly believe that everyone, including those who did not agree with the need for a convention with its separate monitoring body, share the satisfaction we experience of having made such a huge step forward.”* Ms. Loyola Guzmán Lara, Representative FEDEFAM, Geneva 23 September 2005

Professor Manfred Nowak (Austria) carried out that study and came to the conclusion that there were so many important gaps in international human rights and international humanitarian law and practice relating to enforced disappearances, that it was most necessary to draft a special internationally binding instrument to deal satisfactorily with enforced disappearances.

### Drafting process

The recommendation was favourably received by the UN Commission, and an Intersessional Open-ended Working Group, chaired by the French Ambassador Bernard Kessedjian, was established with the mandate to prepare a legally binding normative instrument for the protection of all persons from enforced disappearances. The Working Group would use the “Joinet Draft” and the “Nowak Report” to guide their work. It met for the first time in Geneva in January 2003 and afterwards held 2 sessions a year, concluding its work on 23 September 2005 with the unanimous approval of the final draft of the International Convention for the Protection of All Persons from Enforced Disappearance. The drafting process had been completed in record time due in no small measure to the diplomatic skill and commitment of late Ambassador Kessedjian.

### Adoption of the Convention by the UN

The text was subsequently approved on 29 June 2006 by the Human Rights Council, on 13 November 2006 by the UN Third Committee and, finally, on 20 December 2006 by the General Assembly itself. On 6 February 2007 the Convention was opened for signature during an important diplomatic ceremony in Paris where 57 States signed it. The Convention will enter into force on the 30th day after the deposit with the UN Secretary-General in New York, of the 20th ratification. In other words twenty States have to go through the process of ratification in order that the Convention can become fully operative. ■

# The International Convention for the Protection of all Persons from Enforced Disappearances

## THE CONVENTION IN A NUTSHELL

Now the Convention has been adopted, all attention has shifted towards ratification. This chapter gives a summary of the main characteristics of the Convention.

### What is the Convention?

It is the only treaty that is legally binding (it prohibits and defines certain behaviour of States, and its violation obliges States to react). It deals in a comprehensive manner with enforced disappearance. It was adopted unanimously by the UN General Assembly on 20 December 2006, and opened for signature in Paris on 6 February 2007.

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*“The creation of a new human rights convention is a sign of the importance the international community affords to the issue. Disappearances have often been used by ruthless regimes as an unlawful but convenient way of dealing with those seen as “undesirable.”* Ms. Louise Arbour, former United Nations High Commissioner for Human Rights, 15 February 2006

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### Why is it important?

The Convention contains a universally agreed definition of enforced disappearance and its main goal is to help and oblige States to protect persons from enforced disappearances by achieving the following objectives:

- a) Defeat impunity;
- b) Prevent new enforced disappearances cases from occurring;
- c) Defend the rights of the disappeared and their families.

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*“The most important elements of a legal instrument against enforced disappearance are, inter alia, a clear and sufficiently wide definition on enforced disappearance, strong monitoring mechanisms such as emergency procedure, and a clarification of the obligations of prevention and criminalization of enforced disappearance, and also a proper recognition of the rights of victims and their families.”* Mr. Christos Pourgourides, Rapporteur on Enforced Disappearance (Council of Europe), Committee for Legal Affairs and Human Rights

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### What elements does the Convention include?

1. Establishes the absolute and inderogable right of a person not to be disappeared.
2. An agreed and comprehensive definition of enforced disappearance.
3. Enforced disappearance constitutes a crime against humanity in a context of widespread and systematic violations of human rights.
4. Non-State actors must also be prosecuted by States when they commit acts similar to enforced disappearances.
5. States are obliged to criminalize enforced disappearance in their penal system.
6. States exercise mandatory jurisdiction over all perpetrators of enforced disappearance. Impunity is not to be tolerated.
7. Secret detention is totally prohibited.
8. All persons who are incarcerated must be protected from enforced disappearance. The provision of a minimum of information on detainees is mandatory.
9. A broad definition of the victims of enforced disappearance with their corresponding rights.
10. The right to truth about all circumstances of enforced disappearance cases.
11. Special protection for child victims.



Pakistan, protest against enforced disappearances

## Testimony from Srebrenica

Hatidza Mehmedovic had a happy childhood in Srebrenica where she met the love of her life and got married. Before the war, they were a happy family. She was a homemaker and took care of the house and the children. They built a new house which was completed in 1991 before the war started. She could never imagine that something horrible could ever happen to them. Her husband had a lot of friends and lived peacefully. She says "That was life. This now is not. Yes, I am alive but I don't live." During the whole war she and her husband and their two sons were together in their house in Srebrenica.

Following the fall of the town of Srebrenica to the Serb military forces, on the 12th of July 1995 the four of them headed to Potocari. On the way they heard from the neighbors that women should go to the UN base in Potocari and that men and boys should try to escape through the forest. She wanted to go with them, but both of her sons, especially the youngest one didn't want her to walk that far (100 km over a mountain range to the Army of Bosnia and Herzegovina held territory near Tuzla). She wasn't feeling that well and they thought she would be safer with the other women. They said goodbye at the Breskova Rava point on the road towards Potocari that afternoon. Hatidza: "If I knew it was goodbye forever, I would have never left them."

*"If I knew it was goodbye forever,  
I would have never left them."*



Mrs Mehmedovic at the memorial centre in Srebrenica

Testimony of Hatidza Mehmedovic on the disappearance of her husband and two sons in Srebrenica

### Who monitors the implementation of the Convention?

The Convention provides for the establishment of the Committee on Enforced Disappearances consisting of ten independent experts with a wide variety of functions to monitor compliance by States.

### What are the functions of the Committee?

- Country Reports;
- Urgent Action Requests;
- Individual communications;
- Inter-State communications;
- Fact-Finding Missions;
- Reporting to the UN General Assembly the existence of the widespread and systematic practice of enforced disappearance.

### When will the Convention enter into force?

The Convention will become operative on the 30th day after 20 States have each deposited their instrument of ratification with the UN Secretary General. However to have full impact the Convention should have over 100 ratifications.

### Which States are bound by the Convention?

It fully applies only to States that have ratified it. When States have only signed but not yet ratified it, they are nonetheless obliged not to take any action which goes against either the letter or the spirit of the Convention. ■

## THE CONVENTION IN DETAIL

The Convention itself is an elaborate document filled with legal phrases. To fully implement the Convention in national law and policy a good understanding of its contents is essential. Below, the most important elements of the Convention are presented and explained in a clear manner, at the same time referring to the articles of the Convention itself.

### New human right proclaimed

#### ■ The right not to be subjected to enforced disappearance

For the first time in an international legal instrument, the specific human right not to be subjected to enforced disappearance is established. This right must be attributed to everyone, everywhere and no exceptional circumstance (war, national security, public emergency) can be invoked by governments to justify its suspension or limitation in any way.

*No one shall be subjected to enforced disappearance (Art. 1.1).*

*No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance (Art. 1.2).*

### Definition

#### ■ A clear and comprehensive enforced disappearances definition

The Convention presents a universally agreed authoritative definition of enforced disappearances which is constituted by three elements:

1. Deprivation of the liberty against the will of a person by arrest, detention, abduction or any other form;
2. Involvement of State agents or persons and groups that act with the support of, or tolerance or acquiescence by the State. This also includes non-governmental actors who operate with official approval (paramilitaries, death squads);

3. Refusal to acknowledge the detention of the victim and the concealment of his/her fate and whereabouts. This concealment can be active or passive.

The consequence is that the victim is placed beyond the protection of law. This state of legal defenselessness cannot be considered a separate “fourth” requirement for the definition. Access to legal remedies is not available to disappeared persons as the refusal to acknowledge detention effectively negates all such remedies.



Families of disappeared persons in the Balcan

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*“Rarely are people who commit such crimes brought to justice. Impunity or denial of justice creates a social climate in which no confidence in the institutions can exist. If enforced disappearances remain unpunished, the memory of the disappeared will haunt the societies in which such acts are committed for a long time.”* Sidiki Kaba, former FIDH president, Brazaville, 2007

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*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, which place such person outside the protection of the law (Art. 2).*



Children's message "Punish the perpetrators", Sri Lanka

*"... It is not sufficient for Governments to refer to previously existing criminal offences relating to enforced deprivation of liberty, torture, intimidation, excessive violence, etc. ... The very act of enforced disappearance must be made a separate criminal offence."* UNWGEID, Annual Report for 1995, para. 54

**Definition and non-State actors.**

While non-State actors are not, per se, included in the definition, such cases are expressly mentioned in Article 3 as acts of a similar nature but which are carried out by groups other than the State. States are obliged to take "appropriate measures" to investigate such acts.

*Each State Party shall take appropriate measures to investigate acts defined in Article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice (Art. 3).*

**Different kinds of enforced disappearances**

The paradigmatic case of disappeared persons is of political prisoners who disappear and whose fate becomes unknown. However there are many other enforced disappearances cases which can be recognized as such:

- Disappeared "resurface" and appear after a period of time.
- The disappeared has been killed but the body not recovered.
- Perpetrators from another State are responsible.
- Military combatants become victims during an armed conflict.
- There is no obvious political reason for the disappearance.
- Trafficking of children or women for prostitution, slavery or human organs with State connivance.
- Extraordinary renditions whereby a secret detainee is transferred clandestinely to another country.
- Lack of accurate prison registration can turn a legitimate imprisonment into a disappearance



Drawing of Lady Justice as part of training on the Convention in Burundi

## Pursuit of justice and the fight against impunity

### ■ criminalization of the offence of enforced disappearances in law.

In the struggle against serious and flagrant human rights abuses, the first measure which is taken is to incorporate that practice as a crime both on the national and international level. It happened with genocide, racial discrimination, torture and others.

The Convention makes clear that an enforced disappearance begins when the victim is disappeared and continues until the fate and whereabouts of this person are clearly established.

With the ratification of the Convention, States parties oblige themselves to ensure that enforced disappearance becomes a specific offence within

their own criminal law, and that the practice be punished. This also means that it becomes an obligation for States to prevent enforced disappearances, regardless of the fact whether it occurs in their territory or not.

*Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law (Art. 4).*

#### A Word of Caution:

Introducing the definition of enforced disappearance in the national criminal code is a delicate task. In some countries its inclusion did not in fact strengthen protection but rather weaken it. Newly codified crimes of enforced disappearance should include its three defining elements and penalties incurred should be fully proportionate to the gravity of the crime.

*Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness (Art. 7.1).*

### ■ a continuous crime with no statutory limitation for prosecution

The Convention considers enforced disappearance to be a continuous crime. This element is

When enforced disappearances occur, it is of crucial importance that independent bodies undertake investigations without delay.

crucial as the alleged perpetrators oftentimes defend themselves by referring to the passage of time. In several legal systems there is a

time limit after which a crime cannot be legally prosecuted. It may be 15 years, 20 or more depending on the severity of the offense. The Convention makes clear that an

enforced disappearance begins when the victim is disappeared but continues right until his/her fate and whereabouts are clearly established. Consequently the initial date of the crime cannot be argued in favor of a statute of limitation.

*A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings is of long duration and proportionate to the extreme seriousness of the offence and commences from the moment when the offence ceases, taking into account its continuous nature (Art. 8.1).*

### ■ urgent investigation to seek and find a victim of enforced disappearances

The Convention guarantees the right to report immediately to the authorities a new case of enforced disappearance and have it promptly, thoroughly and impartially investigated. It furthermore obliges States not to put any obstacles that may hinder getting to the truth. When an enforced disappearance occurs, it is of crucial importance that independent bodies undertake investigations without delay, even if there has been no formal complaint. While investigations are under way, witnesses, relatives of the disappeared and their lawyers, as well as those carrying out the investigation, must be protected from intimidation and ill-treatment. Moreover, anyone suspected of being implicated must not be in a position to influence or jeopardize investigations.

*Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken to ensure that the complainant, witness, relatives of the disappeared and their defense counsel, as well as the persons participating in the investigation, are protected against all ill-treatment or intimidation [...] (Art. 12.1).*

### ■ higher orders do not grant immunity from prosecution

Many of the perpetrators of enforced disappearances are State related agents at the time the deprivation of liberty starts. The Convention is explicit in stating that subordinate officials who receive orders or instructions from a senior authority cannot use this for justifying the offence.

*Each State Party shall take the necessary measures to hold criminally responsible at least any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance (Art. 6.1).*

*No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance (Art. 6.2).*

*Each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance:*

- a) When the offence is committed in any territory under its jurisdiction;*
- b) When the alleged offender is one of its nationals;*
- c) When the disappeared is one of its nationals and the disappeared and the State considers it appropriate (Art. 9.1).*

*Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized (Art. 9.2).*

### What the Convention does not say:

During negotiations in drafting the Convention, compromises had to be made in order to get unanimous support for the text. For that reason, certain points were not mentioned in the text. However human rights NGOs and relatives of the disappeared associations felt that it was possible to go along with that negotiation as international practice and customary international law is most explicit on each of these issues. Nevertheless some human rights activists would have preferred that these points to have been included and there has been some controversy over these omissions.

#### • military tribunals

The Convention does not expressly forbid the competence of military tribunals to judge over enforced disappearance cases. However, it establishes that alleged perpetrators of enforced disappearances must be tried before a competent, independent and impartial court or tribunal established by law. In most countries, this principle automatically excludes military tribunals. Furthermore, according to customary international standards, military tribunals are not competent for hearing enforced disappearance cases, having only a restrictive application with the functions that law attributes to the armed forces.

#### • amnesty law and similar measures

The Convention is silent on the admissibility of amnesty laws, pardons or similar measures granting impunity. However, according to international jurisprudence, amnesty legislation or similar measures are inadmissible when they have the effect of preventing investigation and avoiding lawful punishment in cases of enforced disappearances.

#### ■ no impunity – universal jurisdiction

The Convention obliges States either to prosecute, extradite for trial abroad or remit to an international tribunal (for example, the International Criminal Court), all those accused of enforced disappearances who are living in

that country even if the crimes took place in another country. The Convention also provides for mandatory

Subordinate officials who receive orders from a senior authority cannot use this for justifying the offence.

universal jurisdiction, which means that States can claim criminal jurisdiction over any alleged perpetrators of enforced disappearances that were committed outside the boundaries of that State. However, in practice some link needs to exist between the prosecuting State and the perpetrator or the victim.



First march of families of disappeared in Baghdad, August 2008

#### ■ crime against humanity

The Convention determines that enforced disappearance constitutes a crime against humanity when committed in a context of widespread and systematic violation of human rights. This consideration has important juridical consequences essential to overcoming impunity and which reinforce some of the principles already mentioned:

- There can be no statute of limitation or prescription for these cases.
- States have the obligation to cooperate in the investigation and prosecution of the crime.
- There is an added argument for universal jurisdiction with the obligation on all to either extradite or prosecute those responsible for the crime.
- Amnesties and pardons are not applicable.
- Military tribunals are not considered competent to judge people accused of crimes against humanity. Under certain circumstances, those individuals responsible can be tried by international tribunals.

“... the recognition of enforced disappearance as a crime against humanity is essential if it is to be prevented and its perpetrators punished...”. Parliamentary Assembly of the Council of Europe 1984, 26 September 1984

Resolution 828/1984, par. 12

*The widespread or systematic practice of enforced disappearance constitutes a crime against humanity... (Art. 5).*

### Crimes against humanity according to the Rome Statute

Article 7 paragraph 1, of the 1998 Rome Statute establishing the International Criminal Court, also gives a general definition of the concept of crime against humanity, applicable to all crimes listed in the above mentioned paragraph, including enforced disappearance. This definition includes several criteria: “For the purposes of this present Statute “crimes against humanity” means any of the following acts where committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.” General comment of the UNWGEID on enforced disappearances as crimes against humanity, 2009. [www2.ohchr.org/english/issues/disappear/docs/GCas\\_crime\\_against\\_humanity.pdf](http://www2.ohchr.org/english/issues/disappear/docs/GCas_crime_against_humanity.pdf)

### Importance of records on detainees

The deprivation of liberty can be a very critical moment for the person concerned. Even detentions that have started legally may turn into enforced disappearances. When a disappearance occurs, one of the first places where relatives go to search, are prisons or detention facilities. If they can immediately determine where their loved one is being held, that fact allows him/her to be put under the protection of the law. When there are no records on a detainee then clandestine transferral to another detention centre becomes possible which can lead to an enforced disappearance.

### Best practice: Training of law enforcement officers

The Inter-American Court of Human Rights has ordered that States, found guilty of human rights violations, have to train their law enforcement personnel in international human rights and international humanitarian law standards, and make them learn the limits to be respected in the use of force and firearms. This policy has proved to be an effective tool in the prevention of grave abuses of human rights, as the officers involved come to realise that they will be gravely sanctioned if they infringe any of the standards expected of them.

### Prevention

#### ■ prohibition of secret detention

The Convention guarantees that no one shall be held in secret detention. This means that States must hold all detainees in officially recognized places in order that they be easily located by next-of-kin and protected by law.

*No one shall be held in secret detention (Art. 17.1).*



Exhuming graves in search of disappeared persons in South Africa

#### ■ States have to keep registers of detainees.

States must keep official registers of all detainees. These records should contain at least a minimum of information (identity of the detainee, date, time, place and reason for arrest, state of health and the authority in charge). States have to guarantee access to this information to anyone with legitimate interest. States must sanction those agents that fail to record detentions or refuse to provide information on detainees. This obligation raises misunderstanding when the right to privacy can give detainees the option to not have their detention to be revealed. That right to privacy should be respected but it can never become the justification for the existence of “ghost” prisoners. The crucial aspect is that authorities assume full responsibility to respect the rights of all persons under detention.

*Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority... (Art. 17.3).*

*The State Party shall guarantee to any person with legitimate interest in this information, such as relatives of the person deprived of their liberty, their representatives or their counsel, access to a minimum of information... (Art. 18.1).*

#### ■ training of law enforcement officers

States must educate and train law enforcement personnel, both civil and military, medical workers, public officials, or anyone charged or involved with the custody of persons in detention facilities, in the principles, rights and best practices enshrined in the Convention. As a result of that training they will become aware of their obligations and of the consequences they face if they infringe any of its provisions. This training therefore can have a strong preventive effect.

*Each State Party shall ensure that the training of law enforcement personnel includes the necessary education and information regarding the relevant provisions of the Convention (Art. 23).*

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*“Universal jurisdiction in clearly defined individual cases of enforced disappearance, with appropriate punishment, will constitute the most effective measure to deter the practice of enforced disappearance in the future.”* Manfred Nowak, international expert

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### Rights of victims

#### ■ broad understanding of victim

The Convention adopts a broad understanding of victims. It is evident that the disappeared person is the direct victim but also anyone who has suffered the negations of their rights as a direct consequence of enforced disappearances. Relatives of the disappeared are considered victims because they undergo suffering, anguish and stress at not knowing where their loved one is. They also have to endure the denial of state authorities to reveal information on the fate of their relative. Even institutions or groups affected by the enforced disappearances of one of their members can be a victim.

*“Victim” means the disappeared and any individual who has suffered harm as the direct result of an enforced disappearance (Art. 24.1).*

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*“It was a bottomless pit of horror. This is why we believe the existence of nameless bodies is a consequence of the same way of thinking of those who took the initial decision to make people disappear. Wiping out the identity of the corpses magnified the shadow hanging over the thousands of disappeared and all trace of them was lost after their arrest or abduction”.* National Commission on the Disappearance of Persons (CONADEP) Argentina, “Never Again”, Buenos Aires, 1984

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### Relatives are victims of inhuman treatment

UN human rights bodies after much study and investigation have come to recognize that the relatives of the disappeared, per se, are indeed also victims of cruel, inhuman and degrading treatment by the State concerned. This has led to the promotion of specific measures of reparation for the families of the disappeared including psycho-medical rehabilitation and assistance and measures of satisfaction for their dignity and reputation.

#### ■ the right to truth

The Convention recognizes the right of the relatives and all victims to know the truth regarding the circumstances of all enforced disappearance cases. That includes information on the progress and findings of the investigation including knowledge obtained on the fate of a disappeared. The right to truth includes concrete information on the identity of the perpetrators

and their accomplices as well as on the progress and results of the investigations carried out. This is the first time in international human rights law that the right to truth has been clearly formulated.

*Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared (Art. 24.2).*

#### ■ return of the remains of the direct victim to their next-of-kin

The tragedy of the disappeared often ends with the secret and summary execution of the principal victim and the attempted annihilation of their mortal remains. Recovery of those remains was very difficult for a long time. However, down the years the experience of investigators, anthropologists, forensic experts, medical workers and experts in the use of DNA identification became more successful. In Argentina, Bosnia-Herzegovina, Guatemala and Morocco exhumations have been carried out according to international standards. The exhumations allowed for the proper identification of some of the disappeared and the return of their mortal remains to the family. Relatives could finally learn the fate of their loved ones, mourn them and give them a dignified burial.

The Convention establishes the obligation for States to cooperate and ensure the location, identification and return of the mortal remains of the disappeared to their relatives for corresponding funeral rites. While not expressing it, the basis for such an obligation is the right which families have to the mortal remains of their loved one.

*Each State Party shall take all appropriate measures to search for, locate and release disappeared and, in the event of death, to locate, respect and return their remains (Art. 24.3).*

#### ■ the right to redress, integral reparation and compensation

The Convention provides for integral reparation to the victims. The right of victims to obtain reparation is intended as a retribution for the damage suffered. It is meant to redress the physical and psychological loss suffered by the victims. The payment of pecuniary compensation is not enough. Other measures of reparation are needed:

- Information on the fate and whereabouts of the direct victim;
- Prosecution and lawful punishment of those responsible;



Memorial wall in Buenos Aires to commemorate the estimated 35.000 disappeared in Argentina

- Restoration of mortal remains to the respective families;
- Provision of free medical and psychological assistance for rehabilitation and treatment
- Provision of social or legal services that maybe necessary;
- Public apologies by State representatives can also contribute to reparation as well as commemorations and tributes to the memory of the disappeared.

#### Best practice: Non-monetary reparation

Some States have also already adopted forms of non monetary reparation to cover moral and material damages. They include:

- localization, exhumation, identification of mortal remains with their return the next of kin;
- carrying out of full investigations, the prosecution and lawful punishment of those responsible for enforced disappearances;
- memorial ceremonies where public authorities recognize their responsibility and issue an apology in the name of the State;
- building of memorials in honour of the disappeared;
- the provision of free medical and psychological assistance to relatives;
- granting of scholarships to families of the disappeared;
- creation of genetic data banking systems to facilitate DNA identification;
- PR campaigns in the media to help find and identify disappeared children.

*Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation. The right to obtain reparation covers material and moral damages and, where appropriate, other forms of reparation such as: a) Restitution; b) Rehabilitation; c) Satisfaction, including restoration of dignity and reputation; d) Guarantees of non-repetition (Art. 24.4 and 24.5).*

#### ■ social welfare and family law

The Convention obliges States to adopt practical measures that make it possible for relatives of the disappeared to continue on with their lives by adjusting civil law and administrative practices to meet their specific needs. Facing enforced disappearance means entering a stage of uncertainty for the family concerned. A number of practical problems have to be resolved with respect of the day to day activities of the disappeared: his/her work status, relationships, property rights etc. As uncertainty continues, marriage status of partner needs to be clarified, as well as inheritance rights. Families of the disappeared are reluctant to declare the presumed death of their loved one which is the normal administrative procedure applicable to such cases. They feel that doing so would mean the abandonment of the struggle to find them.

*Each State Party shall take the appropriate steps with regard to the legal situation of disappeared whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights (Art. 24.6).*

#### ■ the right of relatives to form and participate in associations

Recognising the fundamental role associations of relatives of the disappeared play in the fight against enforced disappearance, the Convention establishes the obligation of States to take all necessary measures to protect those associations. Because of their critical activity which the State concerned may see as subversive, oftentimes members of associations of relatives of the disappeared have been harassed, imprisoned, tortured or even killed owing precisely to their struggle for truth and justice. Their security and integrity are a major concern. In certain countries, the setting up of any association of relatives is banned as a threat to national security.

*Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared, and to assist victims of enforced disappearance (Art. 24.7).*



Demonstration of families of the disappeared in Belarus, © CWR

### Best practice: Genetic database for identification of disappeared children

In some countries a national genetic database has been set up to establish the identification of disappeared children. This has determined the recovery of children of the disappeared with the full restoration of their original identity. They can know and come to meet their real family for the first time and are free to decide their future. Legally the fake adoption can be annulled and they can assume the name which their disappeared parents may have wanted to give them. A key question here is always the good faith of the adoptee parents. Even though that discovery can be a traumatic experience, many testimonies manifest to its liberating effects for the person concerned.

### Best Practice: Solutions for legal problems

The family of a disappeared is often in great economic need. If there is a bank account, the wife may not have access to it nor to other properties unless she can produce a death certificate. That is also necessary for inheritance, establishing paternity rights, widowhood, etc. However, issuing a death certificate is impossible in an enforced disappearance case so the wife may be obliged to “presume” the death of her husband in order to resolve these important domestic matters. In some countries as Sri Lanka “provisional death certificates” are issued to families of the disappeared. In others such as Argentina and Peru a new category has been created in civil law to respond to the situation under the title of “absence due to enforced disappearance”. Those laws have allowed the relatives of the disappeared to legalise their situation and get on with their lives.

#### Child victims

##### ■ appropriation of children

Enforced disappearances do not only affect adults, children and even newly born babies can also be victims. The Convention provides that States must prevent and lawfully punish the wrongful removal of:

- a) Children or babies subjected themselves to enforced disappearance;
- b) Children whose parents are disappeared;
- c) Babies born during the secret captivity of their pregnant mothers.

Furthermore, States must prevent and sanction the falsification, concealment or destruction of documents attesting the true identity of the mentioned children.

*Each State Party shall take the necessary measures to prevent and punish under its criminal law:*

- a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;*
- b) The falsification, concealment or destruction of documents attesting to the true identity of the children (Art. 25.1)*

*Each State Party shall take the necessary measures to search for and identify the children concerned and to return them to their families of origin (Art. 25.2).*

##### ■ no fake or illegal adoptions

Cases are known of children of disappeared (especially the newly born babies of captured pregnant women in Latin America) having been illegally adopted even by parents who were accomplices in the enforced disappearance of their mothers. These children, now young adults, in most cases do not know their own true identity as children of the disappeared. The Convention obliges States to have legal procedures available to review and even annul a fully sealed adoption if necessary, maintaining as a guiding principle the best interest of the child. It establishes the obligation of States to fully cooperate in the search, identification and location of possible children of the disappeared.

*States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance (Art. 25.4).*



### Best practice: Importance of alternative reports by NGOs

The future Committee when studying country reports can receive alternative NGO reports which will provide a more critical view of the situation. This is a regularly practice in other UN monitoring bodies. Experience has shown that it greatly helps to give a fuller picture of the situation in a given country, and challenges the official reports which can be incomplete or even misleading. The Committee can issue comments, observations and recommendations with a timeframe for implementation. Follow up of implementation will need to be monitored closely by NGOs, especially associations of relatives of the disappeared in the field. Public campaigns and denunciations may be necessary if the State is not complying with its obligations.

## COMMITTEE ON ENFORCED DISAPPEARANCES

Although the Convention is a most important instrument, it will still only be a paper treaty if not applied. A monitoring body is needed to make it fully operative. The Convention establishes a Committee to oversee implementation that will consist of ten independent experts and have the following functions:

**1. Country reports:** The Convention provides for country-reports on measures taken regarding their obligations under the treaty. Each State Party will submit such a report within two years after the Convention has entered into force in that country. After studying it, the Committee will provide comments, make recommendations and even require an additional report within a timeframe if not satisfied with progress. It has much discretion in that regard. For example it can require reports as often as necessary and to different State parties.

**2. Urgent Action Request:** The Committee will undertake urgent actions to seek and find disappeared in cases that have only just occurred in the territory of a State party. The relatives or anyone with a legitimate interest in the case triggers off the search by reporting the case. The Committee will have a mechanism in place to handle a case with the greatest urgency. It can even request that interim measures be taken to protect the victim concerned.

**3. Individual Communications:** If a State Party has expressed its acceptance, the Committee can receive and examine communications from relatives or NGOs on behalf of the disappeared, alleging violations of the Convention. The Committee can then examine them and decide on each issue that comes up in dialog with the State concerned. The final report with its conclusions will be of a quasi judicial nature.

### Best practice: The urgent search to find the disappeared alive: The UNWGEID

Up to now relatives of disappeared submitted cases which had just happened to the UN (WGEID). The WGEID secretariat could immediately communicate the situation to the State to urgently search and find that person. It was considered to be a strictly humanitarian petition and, as such, did not have to satisfy all the requirements normally needed such as that which says that all national resources should be exhausted before making an international complaint. There is evidence that as a result of WGEID intervention some disappeared have “surfaced alive” in prison or have been released from their captivity. In other cases, their fate and whereabouts have been established. It is however impossible to be conclusive about the weight of WGEID in achieving these positive, although sadly few, results.

## Testimony from Sri Lanka

**4. Inter-State Communications:** A procedure on inter-State communications can be initiated by a State Party and implemented by the Committee if its competence to handle such complaints has been accepted.

**5. Fact-Finding Mission and Country Visits:** If the Committee disposes of information concerning violations of the Convention in a particular State Party, it can request a country to organize a fact finding mission to that country, after consultation with and approval of that government. Urgent recommendations can be made and follow-up measures taken.

**6. Reporting to the UN General Assembly.** This innovative faculty means the Committee can report a situation directly to the UN General Assembly, through the UN Secretary General, when there are strong indications that enforced disappearances are being practised on a widespread or systematic basis in the territory of a State Party. The GA can then refer the situation to the prosecutor of the International Criminal Court (ICC) and/or to the Security Council. This new procedure, if used, could have a strong preventive effect.

### Best practice: The Effect of country visits

It has been very useful for international human rights mechanisms to visit or carry out a fact-finding mission in a country. The following are some reasons:

- It gives the relatives of disappeared an unique opportunity to submit their cases and to publicly denounce what is going on. This has often stirred international public opinion and the media, and certainly puts increasing pressure on States to respond.
- Reports published at the end of a country visit or mission include important findings and recommendations which the State is obliged to implement.
- Follow up opportunities can be used to challenge a State and demand full implementation of the recommendations.



Shantha Pathirana (brother of Sudath) on the left

***“Complaints were forwarded to all relevant offices. But the police did not accept the complaint.”***

In the midnight of 10 December 1989, a group of young military officers raided Sudath Pathirana’s house in Colombo. They pretended that they were his friends. As soon as the door was opened, a soldier dragged him and asked for his identity card. Sudath was taken to a black jeep without any plate number and he was pulled into the jeep. The family took great efforts in seeking him by visiting every detention camp which they suspected their son could be detained. Complaints were forwarded to all relevant offices. But the police did not accept the complaint. After about three months, Sudath’s family received information that he and one of his union members Somaweera had been shot dead in front of the hospital. But there were no reliable eyewitnesses to verify the information. Sudath Pathirana never returned.

Case of Sudath Pathirana from Sri Lanka, compiled from the ‘Innocent Voice Silenced by State Terrorism’ by Shantha Pathirana.

The original story can be found in the book Healing Wounds Mending Scars of AFAD see: [www.afad-online.org/](http://www.afad-online.org/)

## Burning questions on the Convention:

### ■ what can the Convention do for past cases?

The Convention in fact reproduces a number of principles that exist in customary international law such as, among others, the obligation for States to investigate, judge and punish perpetrators of enforced disappearances and to grant reparations to the victims. These obligations are fully applicable, independent of the entry into force of the Convention. Even more so, the Convention itself makes no reference to the retroactivity of the text. States can declare the admissibility of the Convention to past cases in their national law. Additionally, the continuing nature of enforced disappearances can make the Convention applicable to past cases, since the crime continues until this very day if the fate and whereabouts have not been clarified.

### ■ what can the Committee do for past cases?

The Convention establishes that the Committee shall have full competence solely in those cases which commenced after its entry into force. However that does not mean that it cannot do anything for past cases as this limitation should be interpreted as referring to cases submitted for the individual or inter-State communications procedure. All cases, past and present could, and should, be referred to in country reports, fact finding or country missions, or when referring situations of widespread and systematic disappearance to the UN GA.

### ■ can the Convention be useful in countries that have not signed nor ratified it?

Yes, because the Convention establishes the standards which are to be observed by States in their policies on enforced disappearances spelling out the different benchmarks and best practices. For instance, the Inter-American Court of Human Rights referred to the Convention and, on certain occasions, has ordered to States concerned to take the definition of enforced disappearances provided by the Convention into account when codifying the offence into their penal codes. The Supreme Court of Nepal referred to the Convention in a judgement even though the government of Nepal did not ratify the Convention yet. It ordered the authorities to refer to the Convention when drafting a domestic law on enforced disappearances.

### ■ how about reservations?

The Convention is silent on the possibility for States to formulate reservations. This means that States may formulate a reservation unless it is incompatible with the object and purpose of the treaty. For example: a reservation according to which a State pretends to derogate the prohibition of secret detention would be unacceptable. The same would apply to a reservation according to which a State pretends to deny all access to basic information on detainees.

# World campaign to ratify the Convention

## INTERNATIONAL CAMPAIGN FOR RATIFICATION

The Convention needs the support of all States. If universal ratification is not achieved, then the effectiveness of this novel international instrument can be undermined. The International Coalition against Enforced Disappearances (ICAED) is aiming at universal ratification. Everybody is invited to join the international campaign of the ICAED.

### Need for campaign

If the principles of the Convention are fully implemented, then the practice of enforced disappearances could be overcome. It is time therefore to take the next step, and see the Convention in action. A minimum of 20 ratifications is needed as the legal requirement for entry into force but in order to carry political weight, ratification is needed by as many countries as possible. Only ratification by the majority of the 192 States, who are members of UN, clearly expresses the political will to end enforced disappearances.

Universal ratification of the Convention is, therefore, a precondition for the eradication of enforced disappearances. However, both the complexity and the high governance standards the Convention sets, may lead States to be hesitant in their support. This is true above all in those States who fortunately have not experienced enforced disappearances in their own recent history. It is also essential that the Convention receives enthusiastic backing from States who have lived through the tragic experience of enforced disappearances in their recent past.

### International Coalition

In 2007 an international campaign for the Convention was launched by the International Coalition against Enforced Disappearances (ICAED). The campaign involves a wide variety of advocacy activities that promote the Convention from the level of individual governments to the United Nations.

### The concrete aims of the campaign are:

- Signature of the Convention by as many States as possible without delay;
- Ratification by as many States as possible to realise universal ratification;
- Acceptance by States of the competence of the Committee for individual and inter-State communications;

- No reservations be included that limit the scope of the Convention;
- Efficiency of the Committee by appointing high quality membership.

The ICAED brings together on a global level, associations of families of the disappeared, leading international and local human rights NGOs, and human rights defenders to work against enforced disappearances, and to achieve widespread ratification of the Convention at the earliest possible date. The ICAED was founded officially in 2007, but it has grown out of the long standing cooperation between relatives of disappeared and (international) human rights organizations.

Member organizations of ICAED develop and carry out campaign activities at the national and international level. Organizations do this in their own capacity but also as members of the ICAED. The ICAED facilitates these campaigns wherever opportune through different activities; e.g. campaign material, advice, exchange of experiences, country visits, website, etc.

### Invitation for joining the campaign

Rather than individual membership ICAED is based on organizational membership. In that way there is a flexible and proactive structure. The ICAED invites all organizations working in a non-violent manner for the protection of human rights to join the international campaign and become a member of the ICAED.

# FEDEFAM

25 Años de Lucha  
Ni desaparición forzada  
ni impunidad  
¡convención ya!



### Caution! Keep the following always in mind

#### • Ratification must be deposited

After a State has approved the ratification of the Convention following its domestic law, the official instrument of ratification must be deposited with the UN Secretary General's office in order to be effective.

#### • States should expressly declare that they recognize the competence of the Committee to receive individual complaints.

The Committee may consider individual communications and also inter-State communications only if States make a statement expressly accepting that procedure. That recognition must also be deposited with the UN Secretary-General.

#### • No reservations!

On ratifying a human rights treaty, States can express reservations on different provisions. It is of crucial importance that States do not formulate reservations to the Convention unless they have the effect to reinforce key provisions. All reservations which are incompatible with the object and purpose of the Convention must be rejected even if States insist. An attentive and persistent advocacy strategy is very necessary in order to avoid surprises.

#### • Beware of declarative statements

States can deposit declarative statements in which a State declares it will interpret an aspect of the Convention in a certain way. This could also limit (but in theory also enhance) the powers attributed to the Convention. An attentive attitude and close study of declarative statements is needed.

Banner of the Latin American Federation of Associations of relatives of Disappeared – Detainees (FEDEFAM)

*When the Nazis came for the communists I remained silent;  
I was not a communist.*

*Then they locked up the social democrats, I remained silent;  
I was not a social democrat.*

*Then they came for the trade unionists I did not speak out;  
I was not a trade unionist.*

*Then they came for the Jews, I did not speak out;  
I was not a Jew.*

*When they came for me, there was no one left to speak out for me.*

Poem attributed to Martin Niemöller, second half of the 1940's

#### Some useful terminology:

Signing:	A State that signed a treaty is not yet legally bound by it but should refrain from acts that go against it.
Ratification:	Is the act whereby a government gives official approval to a treaty and becomes legally bound. Usually congress or parliament carries out the final approval.
Deposit:	The act whereby a State delivers the signed or ratified document to the UN Secretary General in New York.
Reservation:	When a State ratifies a treaty it can insert a reservation which means it does not consider itself bound by a certain part of a treaty.
State Party:	A State that has ratified a treaty becomes a Party to it.

## Voices from around the world on the Convention

### Europe

“The European Parliament is concerned about the true commitment to human rights of European Union Member States that refuse to sign the above-mentioned International Convention for the Protection of All Persons from Enforced Disappearance; asks all European Union Member States that have not done so to sign and ratify it promptly.” European Parliament, Resolution 2007/2274, 8 May 2008

### Asia

“At no other time more than now, has the Convention’s entry into force become such an urgent concern for Asia. This is because the number of cases of this heinous crime reported to the United Nations Working Group on Enforced or Involuntary Disappearances is increasing all the time.” Mr. Mugiyanto (Chair) / Ms. Aileen Bacalso (Secretary General) AFAD, Presentation of Convention to the Human Rights Council, Geneva, 27 June 2006

### Africa

“The Convention is particularly significant for Africa, since there is no instrument under the African Human Rights system to deal with enforced disappearance. While certain provisions of the African Charter on Human and Peoples’ Rights could be used, disappearances are not addressed directly. [...] This tool will allow family members and interested parties to start the process by approaching the Committee, and breaking the silence that is imposed, particularly in countries where impunity is the order of the day.”

Ms. Yasmin Sooka, former Commissioner South African Truth and Reconciliation Commission, 22 May 2008

### Latin America & the Caribbean

“The General Assembly of the OAS urges those member States that have not yet done so to consider signing and ratifying, or acceding to the Inter-American Convention on Forced Disappearance of Persons and the International Convention for the Protection of All Persons from Enforced Disappearance.”

General Assembly of the Organization of the American States, Resolution No. 2295, 5 June 2007, para. 16

## Testimony from Argentina

“Harold Conti, a great Argentine writer, was warned in October 1975 that the Armed Forces had his name on a list of supposedly subversive agents. That alarm was repeated several times during the following weeks. At the beginning of 1976, he wrote to me, and it was evident from his letter that he was going through extraordinary personal stress: “Martha and I are living practically as bandits, hiding our movements, our residence, and speaking in code language. Our address is below, that is, if I continue to be alive when you receive this letter”.

He was at that house on May 5, 1976, when a commando unit of six armed thugs stormed in before midnight, and hours afterwards carried him away, blindfolded and shackled hand and foot, making him to disappear for ever. (...)

Survivors confessed having seen him in a concentration camp, called Brigada Gúemes, near the main Ezeiza Airport motorway, some six miles from Buenos Aires city. He was held in a small cell of seven feet by four, with a cement floor and a metal door. Haroldo admitted to them that before he had been very badly treated in another secret military detention facility. However he could speak and eat only with great difficulty. He had frequent visits from intelligence agents, and early one morning he was taken away, never to be heard of again.”

***“Early one morning he was taken away, never to be heard of again.”***

Former clandestine detention centre ESMA in Buenos Aires, Argentina

Story of the disappearance of Harold Conti in Argentina, reported by Gabriel García Márquez, El Tiempo, Bogotá Colombia, 1981



France



Nepal

### 30 August 2008: International Day of the Disappeared

In more than 20 countries in the world associations of families of disappeared and human rights NGOs commemorated the disappeared on the International Day of the Disappeared on 30 August 2008. The ICAED published a photo publication on the effects of disappearances that was sent with an appeal letter to all Heads of State. In Iraq families of the disappeared from all regions together with human rights organizations gathered for the first time in Baghdad on 30 August 2008.



Manifestation in Morocco



March for the Convention in Guatemala

# Join the

*In the previous pages information on enforced disappearances, the background of the Convention, and the importance and characteristics of the Convention was presented. But now, it's time for action. Read here what you can do. Everybody can make a contribution to the ratification campaign: human rights organizations, politicians, professors and students, journalists, and everyone else.*

## What human rights organizations and associations of families of the disappeared can do:

- **Become a member** of ICAED.
- **Link your website** to the ICAED website.
- **Cooperate** in joint activities at the national, regional and international level.
- **Send institutional letters** to Congress members, MPs, Foreign Affairs and Justice Ministers, Presidents, Prime Ministers and foreign ambassadors with a press release for the media.
- **Organize local campaign** to lobby authorities for ratification. Arrange meetings with Congress members, MPs, ministerial officials to express support.
- **Draft documents, brochures and flyers** in your national language and get the word out on the Convention.
- **Organize congresses, workshops and debates** on the Convention orientated towards the general public or for special audiences (universities, schools, community centres).
- **Invite** relatives of the disappeared or experts to speak on the Convention and visit local authorities.



Call for the Convention in the Hague, the Netherlands, 2005

# campaign

## What politicians can do:

- **Learn more** about the Convention and its implications for national law and practice.
- **Inform colleagues** of the treaty and the need to put it high on the local agenda.
- **Lobby** the judiciary, the legislative and executive branches of government to speed up the process of signature and ratification.
- **Draft projects or statements** that are needed to advance ratification in Congress or Parliament.
- Propose that your State **become member of the "Group des Amies"**.
- **React** when you hear of urgent action campaigns for new enforced disappearances cases and register your concern with the diplomatic representative of the State in question.

## What professors and students can do:

- **Read and study** the ICAED booklet and further readings.
- Incorporate the issue into **social, legal and historical studies**, promoting research papers and other learning projects.
- Organize **workshops** and other activities with audiovisual aids.
- **Prepare artistic exhibits** on disappeared and other cultural activities.

### Best Practice: Translation of the Convention

It is in principle a task of the government to translate the Convention into local language and disseminate information about the Convention. However, in Sri Lanka, the Association of Family Members of the Disappeared (AFMD) translated the Convention into Sinhala and Tamil language. 3,000 booklets were printed and given to the families of the disappeared.

### Best Practice: Exhibition and leaflets

The Liga Guatemalteca de Higiene Mental organized an exhibition on child victims. The exhibition traveled to different parts of Guatemala to reach as many people as possible. During the exhibition leaflets with information on the Convention were handed out to the visitors.



Manifestation for truth and justice in El Salvador

# It's time

## What journalists can do:

- **Write articles** on the Convention and on enforced disappearances.
- **Interview members** of associations of relatives of disappeared people and members of ICAED.

## What everyone can do:

- **Inform yourself** on the issues of the disappeared.
- **Learn about** the Convention.
- **Get your family, friends and colleagues involved.**
- **Join a local chapter** of a human rights organization that works on the issues.
- **Approach the media** by calling on radio stations, local TV channels and writing letters to the newspapers.
- **Request your Congress representative or MP** to push for ratification.
- **Organize cultural events and talks** on the issues in your school, church or other religious institution or community.

## What can diplomats do? Join the "Groupe des Amis" - Group of Friends

States that actively promote the Convention have formed the 'Groupe des Amis'. This group of States regularly meets to discuss the ratification situation and cooperate in lobby actions. The group is spearheaded by the French and Argentine governments. ICAED and the Groupe des Amis are in regular contact to share information and coordinate activities.

## More information

Information on the Campaign, the ratification, the Convention and membership of ICAED: [www.icaed.org](http://www.icaed.org)  
 Complete text of the Convention: [www2.ohchr.org/english/law/disappearance-convention.htm](http://www2.ohchr.org/english/law/disappearance-convention.htm)  
 or look at the website of ICAED at [www.icaed.org](http://www.icaed.org), click 'The Convention'  
 More information on enforced disappearances: [www.enforceddisappearances.org](http://www.enforceddisappearances.org)



The Philippines, Corazon Olediana-Estojero searches for her disappeared husband, Edgardo

# for action

## Key international days for campaigning

**6 February** **Opening Signatures of Convention** Anniversary of the opening for signatures of the Convention in Paris on 6 February 2007, at which 57 countries signed the Convention. A good occasion to encourage more countries to sign and ratify.

**24 -31 May** **International Week of the Disappeared** This week was inaugurated by FEDEFAM in 1981 in Latin American countries as a way of provoking public interest and debate. Diverse series of events are organized by families associations during the week from cultural evenings, to public debates, rallies, memorial acts and visits to embassies. A central message is drafted and urgent ratification of the Convention has become a central concern. The week is also celebrated in other continents.

**17 July** **International Justice Day** Commemorates the creation of International Criminal Court in Rome in 1998. It has become a day to hold activities against impunity for perpetrators of flagrant violations of human rights.

**30 August** **International Day of the Disappeared** All associations of families of the disappeared worldwide commemorate annually the International Day of the Disappeared. FEDEFAM installed the first International Day in 1983 as it became alarmed at the spread of the practice in Latin America and the Caribbean. The day 30 August was chosen at random, a nondescript day, affirming that any day of the year could in fact become the enforced disappearances day for someone unless preventive action is taken. The focus on August 30th is usually on the disappeared, their life stories and struggles.

**10 December** **International Human Rights Day** Anniversary of Universal Declaration of Human Rights

**20 December** **International Convention for Protection of All Persons from Enforced Disappearance** The UN General Assembly approved the Convention meeting in New York on December 20th. ICAED began to organize activities after that day to promote its urgent ratification.



*“I call on you to make this huge hope of yesterday, the reality of tomorrow”*

Ambassador Bernard Kessedjian, 2006

*The French ambassador Bernard Kessedjian was the chairperson of the UN working group drafting the text of the Convention. On 19 December 2007, he passed away at the age of 64. He will be remembered for his extraordinary contribution to the struggle against enforced disappearances.*



a member of



**INTERNATIONAL COALITION  
AGAINST ENFORCED DISAPPEARANCES**