



MANDATE OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

Call for contributions for the study of the Working Group on enforced or involuntary disappearances on the topic of:

‘Standards and public policies for an effective investigation of enforced disappearances’

Enforced disappearances differ from other crimes against the liberty of persons due to the involvement of the State (directly or with its support or acquiescence) and the denial of the deprivation of liberty or the concealment of the fate or whereabouts of the victim. This crime is generally characterized by entrenched impunity and has devastating effects on the relatives of the disappeared, who are also considered victims of the crime.¹

In order to tackle this phenomenon and its recurrence in different parts of the world, international human rights law has been slowly building a legal framework to protect persons against enforced disappearances. One of the first developments in this direction was the obligation of States to investigate disappearances effectively, exhaustively and impartially, as established by international human rights instruments.

Currently, the obligation to investigate has a strong normative basis in the Declaration on the Protection of All Persons from Enforced Disappearance² and the International Convention for the Protection of All Persons from Enforced Disappearance.³

However, the question of how to implement this obligation (i.e. based on which standards or through which public policies or institutions) deserves to be studied carefully and comparatively, in order to recognize good practices and detect negative experiences.

The Working Group has therefore decided to study the issue of standards and public policies for an effective investigation of enforced disappearances. An interim report has been presented to the

¹See art. 24 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance.

² See art. 13, which establishes the right “to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority” for any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance.

³ See art. 12 of the International Convention.

39th session of the Human Rights Council⁴, with a view to producing a full thematic report for the Council's 42nd session in September 2019.

An expert consultation was held on this issue at the margins of the 116th session of the WGEID on 10 September 2018, with a view to both providing a discussion space with relevant experts and other stakeholders, and informing the WGEID's current understanding of the issue for the preparation of the thematic report.

In addition to any input received during the expert consultation, the Working Group would welcome feedback from all interested and relevant stakeholders on the following issues, both country-specific and of a general nature:

- Legislation on enforced disappearances and its criminalization
- Obstacles and difficulties in the investigation and prosecution of enforced disappearances
- Access to information in the context of investigation of enforced disappearances
- Participation of victims in the investigation of enforced disappearances and the importance of their testimony
- Experiences on the protection of victims, witnesses, human rights defenders, lawyers, judges, prosecutors and other persons involved in the investigations.
- Standards of proof to be met in criminal cases of enforced disappearances
- The importance of specialized prosecutorial units and independent forensic institutions for an effective investigation of enforced disappearances
- Investigating and prosecuting enforced disappearances in transitional justice contexts
- Effective investigation and the right to truth
- Cooperation between states on the investigation of enforced disappearance

The Working Group would welcome any written contribution on these or other issues relevant to the subject of the study by 1 February 2019. Contributions can be sent to the following address: wgeid@ohchr.org

⁴ See A/HRC/39/46, paras. 49-79, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/46