

Universal Periodic Review

Session 3

Remarks on enforced disappearances

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Barbados

Outcome of review

France recommended that Barbados sign and ratify the Convention for the Protection of all Persons against Enforced Disappearance.

Burundi

National report

With regard to compliance with treaty obligations; Burundi has already produced and presented to the competent committees. An observation and recommendation by the Committee against torture was related to enforced disappearance.

Outcome of review

France recommended that Burundi take all necessary measures to ban secret places of detention, particularly by envisaging the signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.

Germany shared the concern expressed by the independent expert about the high number of arbitrary arrests and enforced disappearances. It enquired whether the Government would consider technical cooperation to help train police and other officers.

Argentina requested the Government to consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and accepting the competence of the relevant Committee.

Italy noted with concern existing gaps in access to justice, particularly in cases of sexual violence, forced disappearances and arbitrary arrest.

Azerbaijan requested explanations with regard to non-responses to communications sent by the Working Group on Enforced and Involuntary Disappearances.

Mexico recommended Burundi to consider speedy ratification of the Convention on the Rights of Persons with Disabilities the Optional Protocol thereto, and the International Convention for the Protection of All Persons from Enforced Disappearance

Cape Verde

Outcome of review

Mexico recommended Cape Verde to ratify the Convention for the Protection of All Persons from Enforced Disappearance.

Brazil recommended that Cape Verde consider ratifying the Convention for the Protection of All Persons from Enforced Disappearance

Colombia

National report

Colombia has taken steps to prevent, investigate and punish the crime of forced disappearance. Civil society organizations played an important role in the shaping of policy to combat this blight. Some of the steps taken are:

- Creation of an Emergency Search Mechanism for disappeared persons
- Establishment of a Commission on the Search for Missing Persons comprising State and civil society entities, whose prime objective is to support and promote investigations of disappearances
- The Commission coordinated the design and launch of the Disappeared Persons and Corpses Information System (SIRDEC)
- A national disappeared persons location scheme was devised in 2007 and is now being put into effect with a pilot project in the department of Casanare
- The prosecutor's office has set up task forces, data collection squads and biological sample collection squads throughout the country
- 1,559 cadavers have been exhumed on the strength of the different versions of the Justice and Peace Act; 202 of them have been identified and handed over [to next of kin]

For all the steps taken by the State to combat the crimes discussed above, there are still sizable collective challenges:

- Buttressing the Commission on the Search for Missing Persons and increasing its capacity to follow up on forced disappearances and formulate policy proposals
- Initiating the ratification by Congress of the International Convention for the Protection of All Persons from Enforced Disappearance

Stakeholders report

According to HRW, the Government often claims that paramilitaries no longer exist, however new paramilitary groups have cropped up all over the country. HRW indicated that the Organization of American States (OAS) Mission verifying the demobilizations has identified 22 such groups. The paramilitaries enforce their control through killings, enforced disappearances and threats, and they exert influence at some of the highest levels of government, as also indicated by HRW

Colombia's laws criminalizing enforced disappearances are quite advanced, but their application is altogether insufficient, according to ODHACO. Enforced disappearances have long been a cornerstone of the security forces' counter-insurgency strategy, as reported by AI. In most cases no one has been held accountable. Although some of the paramilitary leaders participating in the Justice and Peace process have revealed information about persons they have killed, information about the identity of their victims and the whereabouts of their bodies remains sketchy. More than 1,525 bodies of people thought to have been subjected to enforced disappearance by paramilitaries were exhumed between 2006 and 2008. Only 193 bodies have been identified and 160 returned to their families. The Attorney General's Office is reportedly investigating more than 15,000 cases of enforced disappearances

Outcome of review

Chile asked about measures to effectively implement the advanced norms that criminally define forced disappearances; actions to counteract forced recruiting by non-State and State actor

Argentina recommended that Colombia consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance; and accept the jurisdiction of the related Committee.

Mexico acknowledged the agreement reached by the Government and civil society on the need for prompt, objective and impartial justice, protecting the rights of victims, those prosecuted and society, to ensure that justice, truth and reparations are met in cases of homicide, massacre, kidnapping, torture and forced disappearances. Mexico recommended that Colombia consider the ratification of the Convention for the Protection of all Persons against Enforced Disappearance.

Sweden noted the many non-governmental organizations represented at the review, demonstrating the readiness of the Government to engage actively with civil society. It noted, however, reports of human rights defenders, union activists and journalists being threatened, abducted or even killed, and therefore recommended that Colombia intensify efforts to bring down the high number of enforced disappearances and kidnappings in the country, with particular attention to indigenous human rights defenders.

France noted the State's commitment to ratifying the Convention on Enforced Disappearance and hoped it would do so rapidly.

Cuba recommended that Colombia consider the timely ratification of the Convention on Enforced Disappearance.

Switzerland recommended that Colombia investigate all cases of disappearances and homicides under civil courts and punish those responsible, and to this effect, strengthen the human rights unit of the *Fiscalía General de la Nación*.

Japan requested more efforts to improve the country's human rights situation, including to prevent forced disappearances and kidnappings and to protect the human rights of indigenous peoples.

Canada recommended that the Government fully prosecute extrajudicial killings, enforced disappearances and forced displacements and take strong action to stop their occurrence.

Azerbaijan noted the steps taken against torture and enforced disappearances, particularly the creation of the emergency search mechanism for missing persons, the establishment of a commission for the search for missing persons comprising Government and civil society entities, and the adoption of the human rights and humanitarian law policy by the Ministry of Defence in line with the recommendations of OHCHR to guide the police and army during operations. It encouraged Colombia to ratify the Convention for the Protection of all Persons against Enforced Disappearance and asked about further measures the Government envisages to ensure the practical implementation of legal processes in this field.

Belgium expressed concern about numerous allegations of extrajudicial executions, forced disappearances, acts of torture and mistreatment of prisoners, and that human rights defenders, including trade union workers, continue to suffer seriously from the conflict.

With regard to enforced disappearances, Colombia noted that the urgent search mechanism is being used and that 41 persons had been found alive. Five departments in the country had commissions to promote investigations for enforced disappearances with 499 victims. There are cases being prosecuted and convictions have also been issued in some of them.

Israel

Outcome of review

France recommended that Israel sign the International Convention for the Protection of All Persons from Enforced Disappearance.

Israel Defense Forces and the Civil Administration said Israel recognizes the importance of the Convention on Enforced Disappearances and is considering the implications of signing it and examining its domestic legislation in this context.

Argentina requested Israel to consider the possibility of signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and accept the competence of its Committee.

Liechtenstein

Outcome of review

Mexico recommended that the State ratify the Convention for the Protection of All Persons from Enforced Disappearance

Argentina recommended that Liechtenstein consider the possibility of ratifying the Convention for the Protection of All Persons from Enforced Disappearance and accept the jurisdiction of the Committee on Enforced Disappearances.

Luxembourg

Outcome of Review

Brazil recommended that Luxembourg consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

Azerbaijan asked the country to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Argentina asked Luxembourg to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and to accept the competence of the Committee on Enforced Disappearances.

Montenegro

National report

On the basis of legal succession Montenegro became party to the Convention on the Protection of all Persons against Enforced Disappearances.

Stakeholders report

AI provided information that there has been no progress in the criminal proceedings against six police officers indicted in February 2006 for the enforced disappearance of at least 83 Bosniak civilians from Montenegro to Bosnia and Herzegovina, where they were handed over to the Bosnian Serb army and subsequently extra-judicially executed. In related civil proceedings brought by the victims' families, in 25 out of 38 first instance decisions, Montenegro was found responsible for the enforced disappearance or death of the Bosniak civilians, and compensation was awarded to the survivors of the deportation or to family members for the death of their relatives. The state appealed each decision. The appeal court rejected the finding that the authorities had violated the relatives' right under Article 3 of the ECHR in failing to provide information on the fate and the whereabouts of the disappeared. AI is concerned over both the degree of political obstruction in this case and the inefficiency of the court proceedings, noting that sixteen years on, impunity for this crime continues. Given the slow speed at which Montenegro dealt with another war crime falling under its jurisdiction, AI remains seriously concerned about the continuing impunity for this crime. The prosecutor's office in Podgorica did initiate criminal proceedings against six police officers alleged to have been directly involved in the enforced disappearances. However, no charges were filed against more senior figures widely believed to also have been involved.

Serbia

Outcome of review

Brazil recommended Serbia to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

Turkmenistan

Stakeholders report

According to AI, dozens of prisoners labelled as "traitors of the motherland" by the authorities in connection with the alleged armed attack on then President Niyazov in November 2002 have been subjected to enforced disappearance for over five years. AI reported that most of the prisoners are held in the Ovadan-depe prison, not far from Ashgabad, known for its particularly harsh conditions. However, the authorities have to date not disclosed the prisoners' whereabouts. There have been countless rumours that some of these prisoners have died in recent years. The authorities have to date not responded to requests by relatives and the international community to disclose information about deaths in custody. No thorough, impartial and independent investigation has been opened into the deaths, which reportedly resulted from torture and other ill-treatment, harsh prison conditions and lack of appropriate medical treatment. In this context, Jubilee Campaign (JC) called for access of independent NGOs to detention facilities.

Outcome of review

Brazil recommended that Turkmenistan consider ratifying the Convention for the Protection of all Persons against Enforced Disappearance.

United Arab Emirates

Outcome of review

France recommended signing the International Convention for the Protection of All Persons from Enforced Disappearance.

Uzbekistan**Outcome of review**

Chile recommended that Uzbekistan end the practice of forced return of persons who sought asylum in bordering States after the events in Andijan. Those that have been forcefully returned and are still detained in undisclosed places should be immediately released. Information should be provided on the whereabouts of the 13 disappeared persons that were returned from Kyrgyzstan and whose situation was in due time reported to the Working Group on Enforced or Involuntary Disappearances.