



General Assembly

Distr.
LIMITED

A/HRC/10/L.20
20 March 2009

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Tenth session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Argentina, Australia*, Belgium*, Bolivia, Bosnia and Herzegovina,
Brazil, Bulgaria*, Canada, Chile, Costa Rica*, Croatia*, Cyprus*,
Czech Republic*, Denmark*, Ecuador*, Estonia*, Finland*,
France, Germany, Greece*, Guatemala*, Italy, Japan, Latvia*,
Lithuania*, Luxembourg*, Malta*, Netherlands, Norway*,
Portugal*, Romania*, Serbia*, Slovakia, Slovenia, Spain*,
Sweden*, Switzerland, Ukraine*, United Kingdom of Great Britain
and Northern Ireland, Uruguay: draft resolution**

10/... Enforced or involuntary disappearances

The Human Rights Council,

Reaffirming the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which protect the right to life, liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law,

* Non-member State of the Human Rights Council.

Recalling resolution 20 (XXXVI) of 29 February 1980 of the Commission on Human Rights establishing a Working Group to examine questions relevant to enforced or involuntary disappearances,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance,

Acknowledging the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance by the General Assembly in its resolution 61/177 of 20 December 2006, and recognizing that its entry into force as soon as possible through its ratification by 20 States will be a significant event,

Deeply concerned by the increasing number of cases of enforced or involuntary disappearances around the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Acknowledging that acts of enforced disappearance may amount to crimes against humanity as defined in the Rome Statute of the International Criminal Court,

Recognizing the importance of respecting and ensuring the right of victims to know the truth, as set out in the International Convention for the Protection of All Persons from Enforced Disappearance (art. 24 (2) and preamble), so as to contribute to end impunity and to promote and protect human rights,

Recalling the set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4.Sub.2/1997/20/Rev.1, annex II), and taking note with appreciation of the updated version of these principles (E/CN.4/2005/102/Add.1),

Recalling also its resolution 7/12 of 27 March 2008, extending the mandate of the Working Group on Enforced or Involuntary Disappearances for a further period of three years,

1. *Takes note of* the report submitted by the Working Group on Enforced or Involuntary Disappearances (A/HRC/10/9) and of the recommendations contained therein;
2. *Stresses* the importance of the work of the Working Group, and encourages it to pursue the fulfilment of its mandate as set out in resolution 7/12;
3. *Calls on* the Governments that have not provided for a long period of time substantive replies concerning claims of enforced disappearances in their countries to do so and to give due consideration to relevant recommendations concerning this subject made in the reports of the Working Group;
4. *Urges* States:
 - (a) To promote and give full effect to the Declaration on the Protection of All Persons from Enforced Disappearances;
 - (b) To cooperate with the Working Group and help it to carry out its mandate effectively and, in that framework, give serious consideration to responding favourably to the requests for visits to their countries;
 - (c) To prevent the occurrence of enforced disappearances, including by guaranteeing that any person deprived of liberty is held solely in officially recognized and supervised places of detention, guaranteeing access to all places of detention by authorities and institutions whose competence in this regard has been recognized by the concerned State, maintaining official, accessible, up-to-date registers and/or records of detainees, and ensuring that detainees are brought before a judicial authority promptly after detention;
 - (d) To work to eradicate the culture of impunity for the perpetrators of enforced disappearances and to elucidate cases of enforced disappearances as crucial steps in effective prevention;
 - (e) To prevent and investigate with special attention enforced disappearances of persons belonging to vulnerable groups, especially children, and enforced disappearances of women, as they may become particularly vulnerable to sexual violence and other forms of violence, and to bring the perpetrators of those enforced disappearances to justice;

(f) To take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances, and the lawyers and families of disappeared persons against any intimidation, persecution, reprisals or ill-treatment to which they might be subjected, with special attention to women as relatives of disappeared persons in the context of their struggle to resolve the disappearance of members of their families;

5. *Urges* the Governments concerned:

(a) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(b) To continue their efforts to elucidate the fate of disappeared persons and to ensure that competent authorities in charge of investigation and prosecution are provided with adequate means and resources to resolve cases and bring perpetrators to justice, including after considering establishing, where appropriate, specific judicial mechanisms or truth and reconciliation commissions that complement the justice system;

(c) To make provision in their legal systems for victims of enforced or involuntary disappearances or their families to seek fair, prompt and adequate reparation and in addition, where appropriate, to consider symbolic measures recognizing the suffering of victims and restoring their dignity and reputation;

(d) To address the specific needs of the families of disappeared persons;

6. *Reminds* States that:

(a) As proclaimed in article 2 of the Declaration of the Protection of All Persons from Enforced Disappearances, no State shall practise, permit or tolerate enforced disappearances;

(b) All acts of enforced or involuntary disappearances are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under criminal law;

(c) They should ensure that their competent authorities proceed immediately to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdictions;

(d) If such belief is borne out, all the perpetrators of enforced or involuntary disappearances must be brought to justice;

(e) Impunity is simultaneously one of the underlying causes of enforced disappearances and one of the major obstacles to the elucidation of cases thereof;

(f) As proclaimed in article 11 of the Declaration, all persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured;

7. *Expresses:*

(a) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information and to the Governments that have accepted visits of the Working Group to their countries, requesting them to give all necessary attention to the Working Group's recommendations and inviting them to inform the Working Group of any action they take on those recommendations;

(b) Its appreciation to the Governments that are investigating, cooperating at the international and bilateral levels, and have developed or are developing appropriate mechanisms to investigate any claims of enforced disappearance that are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

8. *Invites* States to take legislative, administrative, legal and other steps, including when a state of emergency has been declared, to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance, and to provide the Working Group with concrete information on the measures taken and the obstacles encountered in preventing enforced or involuntary disappearances and in giving effect to the principles set forth in the Declaration;

9. *Takes note of* the assistance provided to the Working Group by non-governmental organizations and their activities in support of the implementation of the Declaration and invites those organizations to continue their cooperation;

10. *Requests* the Secretary-General to continue:

(a) To ensure that the Working Group receives all the assistance and resources it requires to perform its functions, including supporting the principles of the Declaration, carrying out and following up on missions, and holding sessions in countries that are prepared to receive it;

(b) To provide the resources needed to update the database on cases of enforced disappearance;

(c) To keep the Working Group and the Human Rights Council regularly informed of the steps taken for the wide dissemination and promotion of the Declaration;

11. *Encourages* States that are in the process of signing, ratifying or acceding to the International Convention for the Protection of All Persons from Enforced Disappearance to complete their internal procedures towards those ends in compliance with domestic legislation as expeditiously as possible;

12. *Encourages* all States that have not done so to consider signing, ratifying or acceding to the International Convention for the Protection of All Persons from Enforced Disappearance;

13. *Invites* States to consider joining all efforts to share information on best practices and to work towards the early entry into force of the Convention with the aim of its universality;

14. *Decides* to continue consideration of the matter in conformity with its programme of work.
