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HUMAN RIGHTS COUNCIL  
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Agenda item 3

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

**Albania\*, Andorra\*, Argentina\*, Armenia\*, Austria\*, Belgium\*, Bosnia and Herzegovina, Bulgaria\*, Canada, Chile\*, Croatia\*, Cyprus\*, Czech Republic\*, Estonia\*, Finland\*, France, Germany, Guatemala, Hungary\*, Japan, Luxembourg\*, Mexico, Monaco\*, Morocco\*, Netherlands, Norway\*, Peru, Portugal\*, Republic of Korea\*, Slovakia\*, Slovenia, Spain, Sweden\*, Switzerland, The former Yugoslav Republic of Macedonia\*, United Kingdom of Great Britain and Northern Ireland, Ukraine, Uruguay: draft resolution**

**7/... 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 of life, the right of 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,

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\* 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 consisting of five members, to serve as experts in their individual capacity, 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 Disappearances as a body of principles for all States,

*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* in particular by the increase in enforced or involuntary disappearances in various regions of 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* the fact that acts of enforced disappearance are crimes against humanity, as defined in the Rome Statute of the International Criminal Court,<sup>1</sup>

*Recalling* resolutions 2004/40 of 19 April 2004 and 2005/27 of 19 April 2005 of the Commission on Human Rights,

*Bearing in mind* paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

*Recalling* its resolutions 5/1, entitled “Institution-building of the United Nations Human Rights Council”, and 5/2, entitled “Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council”, of 18 June 2007, and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

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<sup>1</sup> A/CONF.183/9.

1. *Takes note* of the report submitted by the Working Group on Enforced or Involuntary Disappearances<sup>2</sup> and of the recommendations contained therein;

2. *Decides* to extend the mandate of the Working Group for a further period of three years, and encourages it, in fulfilling its mandate:

(a) To promote communication between families of disappeared persons and the Governments concerned, particularly when ordinary channels have failed, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(b) To observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of Government replies;

(c) To consider the question of impunity in the light of the relevant provisions of the Declaration on the Protection of All Persons from Enforced Disappearances, and having in mind the set of principles for the protection and promotion of human rights through action to combat impunity;<sup>3</sup>

(d) To pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned in searching for and identifying these children;

(e) To pay particular attention to cases transmitted to it that are most urgent from a humanitarian perspective and that refer to ill-treatment, serious threatening or intimidation of witnesses of enforced or involuntary disappearances or relatives of disappeared persons;

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<sup>2</sup> A/HRC/7/2.

<sup>3</sup> E/CN.4/Sub.2/1997/20/Rev.1, annex II and E/CN.4/2005/102/Add.1.

(f) To pay particular attention to cases of disappearance of persons working for the promotion and protection of human rights and fundamental freedoms, wherever they occur, and to make appropriate recommendations for preventing such disappearances and improving the protection of such persons;

(g) To apply a gender perspective in its reporting process, including in information collection and the formulation of recommendations;

(h) To provide appropriate assistance in the implementation by States of the Declaration and of the existing international rules;

(i) To continue its deliberations on its working methods and to include these aspects in its reporting process to the Council;

(j) To submit a regular report on the implementation of its mandate to the Council in accordance with its annual programme of work;

3. *Calls on* 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 issue made by the Working Group in their reports;

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 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 cases of enforced disappearance of persons belonging to vulnerable groups, especially children, and to bring the perpetrators of these 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 or ill-treatment to which they might be subjected;

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;

(c) To make provisions 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 on the Protection of All Persons from Enforced Disappearances, no State shall practise, permit or tolerate enforced disappearances;

(b) All acts of enforced or involuntary disappearance 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 jurisdiction;

(d) If there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction, all the perpetrators of that disappearance must be brought to justice;

(e) Impunity is simultaneously one of the underlying causes of enforced disappearances and a major obstacle to the elucidation of such cases;

(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 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, 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 and 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 Council regularly informed of the steps taken for the wide dissemination and promotion of the Declaration;

11. *Decides* to continue consideration of the matter in accordance with its programme of work.

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