



**Asian Federation Against  
Involuntary Disappearances (AFAD)**



**RESPECT THE RIGHT  
NOT TO BE DISAPPEARED!**

**A Primer on the United Nations Convention for  
the Protection of all Persons from  
Enforced Disappearance**

Published by:

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## WHAT IS ENFORCED DISAPPEARANCE?

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Based on the definition provided for by the International Convention for the Protection of All Persons From Enforced Disappearance (2006), enforced disappearance is considered to be the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by the refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.

There are three constitutive elements in enforced disappearances:

(1) deprivation of liberty in any form, (2) State responsibility or, at least, complicity, and (3) refusal to acknowledge the deprivation of liberty or concealment of all information on the victim. As a consequence, the victim of an enforced disappearance is placed outside the protection of the law and this determines the suspension of the enjoyment of all other human rights and freedoms of the disappeared person, who is left in a situation of complete defenselessness.

The Convention establishes that if non-State actors perpetrate acts of the nature of enforced disappearance, States are under an obligation to investigate such crimes and to bring those responsible to justice (Article 3). This practice was first used by the Nazi in 1941 in the “occupied territories” especially in the extermination of the Jews. It was subsequently employed by the military and dictatorial regimes in Latin America and Asia and later even by formally democratic regimes. At present, Asia is the continent with the highest number of enforced disappearances reported to the United Nations Working Group on Enforced or Involuntary Disappearances (UN WGEID). Many cases of enforced disappearance in Europe and Africa have also been reported.

## What does the United Nations (UN) do about Enforced Disappearances?

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In 1978 after receiving many reports on cases of enforced disappearance perpetrated all over the world, the UN General Assembly issued its first resolution ever on the phenomenon of enforced or involuntary disappearance. In 1980, despite the opposition of many countries in Latin America and Asia still under military regimes, the UN WGEID was established and continues to be operative up to the present.

Its mandate is essentially of humanitarian nature, since it acts as a channel of communication between the family of the victim and the government concerned. As such, the UN WGEID lacks any binding power as well as judicial competence and does not have the competence to condemn a State for human rights violations or to establish individual responsibility, or to order serious and thorough investigations, or to award any measure of reparation to victims of enforced disappearance. Since 1992, it has been monitoring the implementation by all countries of the 1992 Declaration on the Protection of All Persons from Enforced Disappearance which was adopted on 18 December of the same year by the UN General Assembly.

### **What is the 1992 UN Declaration for the Protection of All Persons from Enforced Disappearance?**

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This is a universal standard setting document unanimously adopted by the UN General Assembly on 18 December 1992 under the Resolution 47/133. This Declaration, although non-binding, reproduces some generally recognized customary rules and establishes the principles that shall guide and govern all States in the prevention and suppression of the practice of enforced disappearance. In particular, provisions of the said instrument include, among other things, the following:

- Definition of the practice of enforced disappearance and description of the different human rights violated;
- Repudiation of the practice of enforced disappearance under all circumstances;
- Obligation for each State to take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction;
- Obligation of each State to make enforced disappearance an autonomous offense under its criminal law and sanction it in accordance with its extreme seriousness;
- No order of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance;
- All persons deprived of their liberty should be held in official detention centers and information be given to families on detainees (right to information);
- The State is obliged to investigate all reported cases of enforced disappearance (right to truth) and persons involved in denouncing cases and in the investigation process, should be protected from any form of harassment;
- Enforced disappearance is a continuing offense and therefore, statutes of limitations for criminal proceedings, where applicable, must be substantial and commensurate to the extreme seriousness of the offense;

- Enforced disappearances are to be considered crimes against humanity when committed as part of a widespread or systematic practice and are hence, imprescriptible;
- Persons who have, or are alleged to have committed an enforced disappearance shall not benefit from any special amnesty law or similar measures;
- Only ordinary tribunals shall be competent to try persons alleged to have committed an enforced disappearance, to the exclusion of any other special tribunal, in particular military courts;
- The disappeared people and their families have the right to adequate compensation, including the means for as complete a rehabilitation as possible;
- Children who are victims of enforced disappearance should receive special protection and the abduction of children and the act of altering or suppressing documents attesting their true identity must be codified and sanctioned as autonomous and very serious offenses. There shall be an opportunity, in States which recognize a system of adoption, for review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance.

### What is the UN Convention for the Protection of All Persons from Enforced Disappearance?

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The Convention is different from the 1992 Declaration in the sense that the former is a treaty of universal scope, which will be legally binding for the States that ratify it. Its text was approved on 23 September 2005; adopted by the UN Human Rights Council on 27 June 2006; adopted by the UN General Assembly on 20 December 2006 and opened for signatures on 7 February 2007 in Paris, France. On that occasion, 57 States signed it. Since then, signatures have increased to 88. As of June 2011, 27 States have ratified the Convention. It entered into force on 23 December 2010, that is 30 days after the 20<sup>th</sup> instrument of ratification was deposited with the UN Secretary-General by Iraq. As of the time of writing, Japan, Kazakhstan and Iraq are the only Asian States that have ratified the Convention.

From the initial assessment of the Asian Federation Against Involuntary Disappearances (AFAD), the following are some factors which contributed to the successful adoption of the Convention:

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- Gaps in international human rights and humanitarian law that permit the practice of enforced disappearances to develop and spread in countries and regions all over the world, especially Asia. Families and victims quickly perceived such situation and began to lobby for an international treaty to fill those gaps;

- Insufficiency of the 1992 Declaration and the UN WGEID to stop the phenomenon spreading all over the world as they are only declaratory in scope. There was an urgent need for a universally binding international instrument to stop enforced disappearance;
- The Latin American Federation of Associations of Relatives of Disappeared- Detainees' (*FEDEFAM's*) indefatigable and persistent efforts to work for the establishment of an international convention to protect people from enforced disappearances and to concretize its slogan: *Nunca Más* (Never Again!) were a major force in pushing for the final adoption of the Convention by the UN General Assembly;
- The cooperation of the different organizations of families of disappeared people from various continents and of international human rights organizations which joined efforts to lobby for the Convention during the three-year drafting and negotiation process (2002-2005) within the then especially mandated UN Inter-sessional Working Group to Elaborate a Draft Legally-Binding Normative Instrument for the Protection of All Persons from Enforced Disappearance were very useful in convincing States to adopt a new treaty with an independent monitoring system. The excellent combination of the true-to-life experiences of the families and the legal expertise of the international NGOs greatly strengthened the Convention's contents, stressing its urgency. There was a collective voice loud enough to be heard at the UN in Geneva, Switzerland;
- The lobbying at the UN and the visits by organizations of families of the disappeared to the Ministries of Foreign Affairs in different countries and to their Permanent Missions in Geneva and New York helped convince governments of the political, moral and practical value of the Convention to the families of the disappeared and to all peoples;
- The thousands of cases of enforced disappearance which remain unsolved in various parts of the world, as can be seen in the annual reports of the UN WGEID, are visible reasons to create a new treaty that protects all persons from enforced disappearance;
- The support of the media and civil society was indispensable.

## What does the Convention mainly state about the issue of enforced disappearance?

In general, the Convention consecrates as binding all the principles which were already mentioned in the 1992 Declaration. Further, it better specifies the obligations of States in order to prevent and suppress the practice of enforced disappearance. The Convention establishes the non-derogable right of everyone not to be subjected to enforced disappearance. No circumstance whatsoever, be it a state or threat of war, internal political instability or any other public emergency, may be invoked to justify an enforced disappearance. The Convention considers that the widespread or systematic practice of enforced disappearance is a crime against humanity. Indeed, enforced disappearance is a crime under international law.

Furthermore, the Convention provides for the right of the relatives of the disappeared persons and of the society as a whole to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate and whereabouts of the disappeared person.

According to the Convention, each State Party shall codify enforced disappearance as an autonomous offense under its criminal law and punish it by appropriate penalties which take into account its extreme seriousness.

State Parties to the Convention shall cooperate in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying their remains and returning them to their families. Each State Party shall take appropriate measures in this sense.

Moreover, the Convention contains a provision that emphasizes the right to form and participate freely in organizations and associations supporting the cause of the disappeared.

Further, the Convention provides that:

- Enforced disappearance is a continuing offense and statutes of limitations for criminal proceedings shall not apply until the fate and whereabouts of the victim are established with certainty;
- Enforced disappearances constituting crimes against humanity (systematic or widespread practice) are imprescriptible;
- No one shall be held in secret detention;
- All States Parties shall establish and maintain up-to-date official registers of persons deprived of liberty and, upon request, provide some basic information on people deprived of their liberty to judicial authorities and any person with a legitimate interest in this information;

- In cases of enforced disappearance, “victim” means the disappeared person and any individual who has suffered harm as a direct result of an enforced disappearance; and
- All victims (in the broad sense stated above) of disappearance have the right to obtain reparation and prompt, fair and adequate compensation. This shall include:
  1. Restitution;
  2. Rehabilitation;
  3. Satisfaction, including restoration of dignity and reputation; and
  4. Guarantees of non-repetition.
- States shall prevent and punish under domestic criminal law 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; as well as the falsification, concealment or destruction of documents attesting to the true identity of the children concerned. States shall have legal procedures in place to annul any adoption or placement of children that originated in an enforced disappearance.

### **Why is there a need for the Convention?**

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At present, the international bodies tasked to address in different ways the issue of enforced disappearance are the following:

- UN WGEID;
- European and Inter-American Court of Human Rights and the African Commission and Court of Human and Peoples’ Rights;
- International Criminal Court (ICC) – It is applicable only in cases of disappearances happening as part of a widespread or systematic practice and for States that have ratified the Rome Statute;
- United Nations Human Rights Committee (HRC); and
- International Committee of the Red Cross (ICRC).

These bodies, however, have their own respective limitations.

The UN WGEID established in 1980, for instance, lacks any binding power as well as judicial competence. Its mandate is essentially humanitarian and despite much valuable work, it has not been able to stop the spread of enforced disappearance.

The other mechanisms are only competent for Europe, Latin America and Africa respectively and serve the purpose of establishing State responsibility.

On the other hand, the ICC is a court of international criminal law which establishes criminal responsibility of individuals for crimes against humanity, genocide, and war crimes. Victims of enforced disappearance and their relatives do not have direct access to this international tribunal, for it is so created so as to condemn international criminals and not to primarily protect the rights of the victims. It may take years until a perpetrator is convicted.

For its part, the Human Rights Committee (HRC) serves as the monitoring body of the International Covenant on Civil and Political Rights (ICCPR) for all States that have ratified it and its First Optional Protocol. As many States are Parties to the Covenant, it has a colossal workload and a huge backlog that is almost paralyzing its action. The HRC is a quasi-judicial body and its views on individual communications lack a binding power.

The ICRC works to guarantee the implementation of the Geneva Conventions and their Additional Protocols. However, its competence is limited to situations of conflict and to international humanitarian law. Further, the ICRC lacks any binding or judicial power and all its actions are highly confidential and strictly humanitarian.

### **What are the functions of the Committee on Enforced Disappearances which has been established by the United Nations to ensure the Convention's implementation?**

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One of the most important achievements of the Convention is the establishment of the new ten-member Committee on Enforced Disappearances. The members of the Committee were elected on 31 May 2011.

The Committee is tasked to carry out the following functions:

- a. Receive, consider and issue comments, observations and recommendations on State reports on the measures taken to give effect to obligations established under the Convention within two years after its entry into force.
- b. Request a State Party to provide the Committee with information on the situation of a person reported disappeared (relatives of a disappeared may submit to the Committee requests to search for their loved ones) within a time limit set by the Committee itself. In the light of the response provided for by the State Party concerned, the Committee shall transmit a recommendation to the respective State and inform the person who filed the request regarding the process. The Committee may also request the State to take appropriate actions, including the adoption of interim measures and to report it to its members. Finally, the Committee shall continue its efforts to work with the State concerned for as long as the fate and whereabouts of the disappeared person remain unresolved.

c. Request one or more of the members of the Committee, (if it is considered that a visit to the territory of a State Party is necessary to discharge the mandate) to undertake, upon the agreement of the State concerned, a visit and report back its findings and recommendations to the Committee without delay.

d. Receive and consider communications for or on behalf of individuals who claim to be victims of a violation of the provisions of the Convention. In this view, a State Party may, at the time of ratification or at any time afterwards, declare that it recognizes such a competence.

**Important Note:** If a State does not expressly accept this competence, the Committee may not receive any individual communication. It is worth-noting that, among the 27 States that have ratified the Convention to date, only 10 have declared to accept the competence of the Committee to receive and consider individual communications. At present, no Asian State has done so.

e. Upon declaration of recognition of competence by the State Parties concerned, the Committee shall receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Convention.

f. Urgently bring a matter (when it receives information which appears to contain well-founded indications that enforced disappearance is being practiced on a widespread or systematic basis in the territory of a State Party) to the attention of the General Assembly of the UN, through the UN Secretary-General.

## What is the Convention's Importance to the Peoples of Asia?

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Asia, at present, lacks a strong regional legal instrument or procedural mechanism to protect, promote and uphold human rights, be it a Convention, a Commission or a Court. The effectiveness of the ASEAN Intergovernmental Human Rights Commission still remains to be proven amidst various skepticisms on its mandate. In comparison, Latin America has the Inter-American Human Rights System and the Inter-American Convention on Enforced Disappearances while Europe has several human rights instruments such as the European Convention on Human Rights and the European Court of Human Rights. The UN is the only venue that the families of the disappeared in the Asian region can use.

Moreover, at present, not a single country in Asia has a national law criminalizing enforced disappearance as an autonomous crime under domestic law. Thus, the Convention, if ratified and duly implemented, will facilitate the enactment of pieces of national legislation criminalizing enforced disappearance, which will also have a crucial preventive role.

Moreover, in the recent reports of the UN WGEID, Asia is the continent which submitted the highest number of cases. The reported cases both occurred in the past and continue to happen at present. With the absence of national, regional and international mechanisms criminalizing enforced disappearances, we can never prevent enforced disappearances from happening in the Asian region and it is impossible to effectively combat impunity.

## Why is it important for States to ratify the Convention and to ensure its immediate entry into force?

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A State that ratifies the Convention will be compelled to enact the necessary domestic legislation to ensure that it fulfills its international obligations. This will affect States in their national policies especially in the area of security and political repression, where they will be obliged to act in a humane manner.

If duly accepted, the competence of the Committee to receive and consider individual communications will grant an international venue to turn to in order to obtain justice. This will be of particular importance for Asian countries, which do not have a strong regional human rights mechanism for protection from human rights violations.

### What is the practical importance of the Convention for the victims and their families?



A Convention is a fundamental step in the struggle against impunity. It would ensure that States have the obligation to identify, judge and sanction perpetrators, to guarantee the right to know the truth, and to provide relatives of the disappeared with integral reparation. Moreover, it would provide hope to the survivors and the relatives of the victims. It would also establish a clear set of effective preventive measures.

## How can we lobby governments to recognize the importance of the instrument by signing and ratifying the Convention?

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1. Help educate the public by informing about the reality of enforced disappearances and the importance of the Convention in securing safeguards for human rights. Within organizations, it will be beneficial to discuss the issue among people within our respective organizational structures as well as assist in distributing campaign materials, i.e. primers, pamphlets, posters, etc.

2. Conduct trainings among various groups, especially among the media and the academe on the contents of the Convention and in the aspects of campaigning and lobbying, which shall produce experts among selected participants to echo such trainings to more groups and sectors.
3. Assist in strengthening media work to further project the issue to a greater audience.
4. Popularize technical information materials about enforced disappearance and the Convention.
5. Translate information materials from English to other languages and vice versa so that more people will be able to read and understand the issue.
6. Seek opportunities to lobby among heads of States, parliaments and other government officials or ministers who are influential in deciding for the Convention's ratification.

It can be helpful to conduct a study on the attitudes of the different governments concerning human rights in general and the Convention in particular. Results of the study will give a better understanding of governments' position vis-à-vis human rights. Consequently, it will provide more direction to the campaign and lobbying plans and make the strategies and tactics of the organizations sharper and more effective.

The study can also cull the lessons from the various realities people face in different parts of the world. Considering these lessons in the planning processes will further contribute to the effectiveness of the international campaign against disappearances and impunity to achieve a world free from enforced disappearances.

## What to do in those States that are not yet Parties to the Convention?

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Families of the disappeared are also encouraged to avail themselves of existing remedies by doing the following things:

1. Keep sending communications to the UN WGEID. It is primarily important to update the UN WGEID on any news. If there has already been a case presented, it is of utmost importance to avoid the application of the six-month rule, i.e. if the UN WGEID sends information to the source and the source does not respond within six months, the UN WGEID will drop the case;

2. In case there are reprisals or threats, immediately inform the UN WGEID and ask for its prompt intervention. It is important to periodically update the UN WGEID once it has provided prompt intervention measures in order to establish a fruitful and continuing dialogue;
3. Formulate general observations and allegations to the UN WGEID on the compliance of local governments with their obligations under the Declaration; and
4. Submit communications to the HRC if the State is a Party to the ICCPR and its First Optional Protocol.

### **What is the International Coalition Against Enforced Disappearance (ICAED)?**

In view of the lessons of our years of lobbying, the principal actors in lobbying for the adoption of the Convention deemed it imperative to form the International Coalition Against Enforced Disappearances (ICAED) in order to secure the entry into force of the Convention at the earliest possible date and to campaign for as many signatures and ratifications as possible. The ICAED was formally launched in Geneva, Switzerland on 26 September 2007.

The Asian Federation Against Involuntary Disappearances (AFAD) is presently the Focal Point of the ICAED.

For more information on the International Coalition Against Enforced Disappearances, please contact website: [www.icaed.org](http://www.icaed.org) or send an email to [fpicaed@gmail.com](mailto:fpicaed@gmail.com).



## **International Convention for the Protection of All Persons from Enforced Disappearance**

### **Preamble**

*The States Parties to this Convention,*

*Considering* the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

*Having regard* to the Universal Declaration of Human Rights,

*Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the other relevant international instruments in the fields of human rights, humanitarian law and international criminal law,

*Also recalling* the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992,

*Aware* of the extreme seriousness of enforced disappearance, which constitutes a crime and, in certain circumstances defined in international law, a crime against humanity,

*Determined* to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance,

*Considering* the right of any person not to be subjected to enforced disappearance, the right of victims to justice and to reparation,

*Affirming* the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end,

*Have agreed* on the following articles:

### **Part I**

#### **Article 1**

1. No one shall be subjected to enforced disappearance.

2. 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.

#### **Article 2**

For the purposes of this Convention, "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 person, which place such a person outside the protection of the law.

**Article 3**

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.

**Article 4**

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

**Article 5**

The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

**Article 6**

1. Each State Party shall take the necessary measures to hold criminally responsible at least:

( a ) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

( b ) A superior who:

- (i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;
- (ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and
- (iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

( c ) Subparagraph ( b ) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

**Article 7**

1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.

2. Each State Party may establish:

( a ) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;

( b ) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons.

#### **Article 8**

Without prejudice to article 5,

1. 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:

( a ) Is of long duration and is proportionate to the extreme seriousness of this offence;

( b ) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

2. Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation.

#### **Article 9**

1. 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 or on board a ship or aircraft registered in that State;

( b ) When the alleged offender is one of its nationals;

( c ) When the disappeared person is one of its nationals and the State Party considers it appropriate.

2. 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.

3. This Convention does not exclude any additional criminal jurisdiction exercised in accordance with national law.

#### **Article 10**

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 of this article may communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides.

#### **Article 11**

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.

3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law.

#### **Article 12**

1. 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, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.

3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:

( a ) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;

( b ) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.

4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a

position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.

### **Article 13**

1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.

3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

7. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons.

### **Article 14**

1. States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.

2. Such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant mutual legal assistance or may make it subject to conditions.

**Article 15**

States Parties shall cooperate with each other and shall afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

**Article 16**

1. No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

**Article 17**

1. No one shall be held in secret detention.

2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:

( a ) Establish the conditions under which orders of deprivation of liberty may be given;

( b ) Indicate those authorities authorized to order the deprivation of liberty;

( c ) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;

( d ) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;

( e ) Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;

( f ) Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.

3. 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 or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:

- ( a ) The identity of the person deprived of liberty;
- ( b ) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;
- ( c ) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;
- ( d ) The authority responsible for supervising the deprivation of liberty;
- ( e ) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;
- ( f ) Elements relating to the state of health of the person deprived of liberty;
- ( g ) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;
- ( h ) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

#### **Article 18**

1. Subject to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:

- ( a ) The authority that ordered the deprivation of liberty;
- ( b ) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;
- ( c ) The authority responsible for supervising the deprivation of liberty;
- ( d ) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;
- ( e ) The date, time and place of release;
- ( f ) Elements relating to the state of health of the person deprived of liberty;
- ( g ) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.

2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

#### **Article 19**

1. Personal information, including medical and genetic data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.

2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.

#### **Article 20**

1. Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information referred to in article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention. In no case shall there be restrictions on the right to information referred to in article 18 that could constitute conduct defined in article 2 or be in violation of article 17, paragraph 1.

2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective judicial remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances.

#### **Article 21**

Each State Party shall take the necessary measures to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law.

#### **Article 22**

Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

- ( a ) Delaying or obstructing the remedies referred to in article 17, paragraph 2 ( f ), and article 20, paragraph 2;
- ( b ) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate;
- ( c ) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met.

#### **Article 23**

1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of this Convention, in order to:

- ( a ) Prevent the involvement of such officials in enforced disappearances;
- ( b ) Emphasize the importance of prevention and investigations in relation to enforced disappearances;
- ( c ) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.

2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.

3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph 1 of this article who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or bodies vested with powers of review or remedy.

#### **Article 24**

1. For the purposes of this Convention, "victim" means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.

2. 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 person. Each State Party shall take appropriate measures in this regard.

3. Each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.

4. 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.

5. The right to obtain reparation referred to in paragraph 4 of this article 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.

6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. 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 persons, and to assist victims of enforced disappearance.

#### **Article 25**

1. 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 referred to in subparagraph ( a ) above.

2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 ( a ) of this article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.

3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 ( a ) of this article.

4. Given the need to protect the best interests of the children referred to in paragraph 1 ( a ) of this article and their right to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognized by law, 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.

5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

## **PART II**

### **Article 26**

1. A Committee on Enforced Disappearances (hereinafter referred to as "the Committee") shall be established to carry out the functions provided for under this Convention. The Committee shall consist of ten experts of high moral character and recognized competence in the field of human rights, who shall serve in their personal capacity and be independent and impartial. The members of the Committee shall be elected by the States Parties according to equitable geographical distribution. Due account shall be taken of the usefulness of the participation in the work of the Committee of persons having relevant legal experience and of balanced gender representation.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties from among their nationals, at biennial meetings of the States Parties convened by the Secretary-General of the United Nations for this purpose. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

3. The initial election shall be held no later than six months after the date of entry into force of this Convention. Four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which nominated each candidate, and shall submit this list to all States Parties.

4. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 2 of this article.

5. If a member of the Committee dies or resigns or for any other reason can no longer perform his or her Committee duties, the State Party which nominated him or her shall, in accordance with the criteria set out in paragraph 1 of this article, appoint another candidate from among its nationals to serve out his or her term,

subject to the approval of the majority of the States Parties. Such approval shall be considered to have been obtained unless half or more of the States Parties respond negatively within six weeks of having been informed by the Secretary-General of the United Nations of the proposed appointment.

6. The Committee shall establish its own rules of procedure.

7. The Secretary-General of the United Nations shall provide the Committee with the necessary means, staff and facilities for the effective performance of its functions. The Secretary-General of the United Nations shall convene the initial meeting of the Committee.

8. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations, as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

9. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate, to the extent of the Committee's functions that the State Party has accepted.

#### **Article 27**

A Conference of the States Parties will take place at the earliest four years and at the latest six years following the entry into force of this Convention to evaluate the functioning of the Committee and to decide, in accordance with the procedure described in article 44, paragraph 2, whether it is appropriate to transfer to another body - without excluding any possibility - the monitoring of this Convention, in accordance with the functions defined in articles 28 to 36.

#### **Article 28**

1. In the framework of the competencies granted by this Convention, the Committee shall cooperate with all relevant organs, offices and specialized agencies and funds of the United Nations, with the treaty bodies instituted by international instruments, with the special procedures of the United Nations and with the relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances.

2. As it discharges its mandate, the Committee shall consult other treaty bodies instituted by relevant international human rights instruments, in particular the Human Rights Committee instituted by the International Covenant on Civil and Political Rights, with a view to ensuring the consistency of their respective observations and recommendations.

#### **Article 29**

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under this Convention, within two years after the entry into force of this Convention for the State Party concerned.

2. The Secretary-General of the United Nations shall make this report available to all States Parties.

3. Each report shall be considered by the Committee, which shall issue such comments, observations or recommendations as it may deem appropriate. The comments, observations or recommendations shall be communicated to the State Party concerned, which may respond to them, on its own initiative or at the request of the Committee.

4. The Committee may also request States Parties to provide additional information on the implementation of this Convention.

#### **Article 30**

1. A request that a disappeared person should be sought and found may be submitted to the Committee, as a matter of urgency, by relatives of the disappeared person or their legal representatives, their counsel or any person authorized by them, as well as by any other person having a legitimate interest.

2. If the Committee considers that a request for urgent action submitted in pursuance of paragraph 1 of this article:

( a ) Is not manifestly unfounded;

( b ) Does not constitute an abuse of the right of submission of such requests;

( c ) Has already been duly presented to the competent bodies of the State Party concerned, such as those authorized to undertake investigations, where such a possibility exists;

( d ) Is not incompatible with the provisions of this Convention; and

( e ) The same matter is not being examined under another procedure of international investigation or settlement of the same nature;

it shall request the State Party concerned to provide it with information on the situation of the persons sought, within a time limit set by the Committee.

3. In the light of the information provided by the State Party concerned in accordance with paragraph 2 of this article, the Committee may transmit recommendations to the State Party, including a request that the State Party should take all the necessary measures, including interim measures, to locate and protect the person concerned in accordance with this Convention and to inform the Committee, within a specified period of time, of measures taken, taking into account the urgency of the situation. The Committee shall inform the person submitting the urgent action request of its recommendations and of the information provided to it by the State as it becomes available.

4. The Committee shall continue its efforts to work with the State Party concerned for as long as the fate of the person sought remains unresolved. The person presenting the request shall be kept informed.

#### **Article 31**

1. A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.

2. The Committee shall consider a communication inadmissible where:
  - ( a ) The communication is anonymous;
  - ( b ) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of this Convention;
  - ( c ) The same matter is being examined under another procedure of international investigation or settlement of the same nature; or where
  - ( d ) All effective available domestic remedies have not been exhausted. This rule shall not apply where the application of the remedies is unreasonably prolonged.
3. If the Committee considers that the communication meets the requirements set out in paragraph 2 of this article, it shall transmit the communication to the State Party concerned, requesting it to provide observations and comments within a time limit set by the Committee.
4. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party will take such interim measures as may be necessary to avoid possible irreparable damage to the victims of the alleged violation. Where the Committee exercises its discretion, this does not imply a determination on admissibility or on the merits of the communication.
5. The Committee shall hold closed meetings when examining communications under the present article. It shall inform the author of a communication of the responses provided by the State Party concerned. When the Committee decides to finalize the procedure, it shall communicate its views to the State Party and to the author of the communication.

#### **Article 32**

A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention. The Committee shall not receive communications concerning a State Party which has not made such a declaration, nor communications from a State Party which has not made such a declaration.

#### **Article 33**

1. If the Committee receives reliable information indicating that a State Party is seriously violating the provisions of this Convention, it may, after consultation with the State Party concerned, request one or more of its members to undertake a visit and report back to it without delay.
2. The Committee shall notify the State Party concerned, in writing, of its intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The State Party shall answer the Committee within a reasonable time.
3. Upon a substantiated request by the State Party, the Committee may decide to postpone or cancel its visit.
4. If the State Party agrees to the visit, the Committee and the State Party concerned shall work together to define the modalities of the visit and the State Party shall provide the Committee with all the facilities needed for the successful completion of the visit.

5. Following its visit, the Committee shall communicate to the State Party concerned its observations and recommendations.

**Article 34**

If the Committee receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State Party, it may, after seeking from the State Party concerned all relevant information on the situation, urgently bring the matter to the attention of the General Assembly of the United Nations, through the Secretary-General of the United Nations.

**Article 35**

1. The Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of this Convention.

2. If a State becomes a party to this Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned.

**Article 36**

1. The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

2. Before an observation on a State Party is published in the annual report, the State Party concerned shall be informed in advance and shall be given reasonable time to answer. This State Party may request the publication of its comments or observations in the report.

**PART III**

**Article 37**

Nothing in this Convention shall affect any provisions which are more conducive to the protection of all persons from enforced disappearance and which may be contained in:

- ( a ) The law of a State Party;
- ( b ) International law in force for that State.

**Article 38**

1. This Convention is open for signature by all Member States of the United Nations.

2. This Convention is subject to ratification by all Member States of the United Nations. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is open to accession by all Member States of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

**Article 39**

1. This Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the twentieth instrument of ratification or accession, this Convention shall enter into force on the thirtieth day after the date of the deposit of that State's instrument of ratification or accession.

**Article 40**

The Secretary-General of the United Nations shall notify all States Members of the United Nations and all States which have signed or acceded to this Convention of the following:

- ( a ) Signatures, ratifications and accessions under article 38;
- ( b ) The date of entry into force of this Convention under article 39.

**Article 41**

The provisions of this Convention shall apply to all parts of federal States without any limitations or exceptions.

**Article 42**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation or by the procedures expressly provided for in this Convention shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. A State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a declaration.

3. Any State Party having made a declaration in accordance with the provisions of paragraph 2 of this article may at any time withdraw this declaration by notification to the Secretary-General of the United Nations.

**Article 43**

This Convention is without prejudice to the provisions of international humanitarian law, including the obligations of the High Contracting Parties to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, or to the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

**Article 44**

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all the States Parties for acceptance.

3. An amendment adopted in accordance with paragraph 2 of this article shall enter into force when two thirds of the States Parties to this Convention have accepted it in accordance with their respective constitutional processes.

4. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendment which they have accepted.

**Article 45**

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article 38.



## Other materials by the Asian Federation Against Involuntary Disappearances (AFAD):



**Books:**

Asian Federation Against Involuntary Disappearances. (2001). *Between Memory & Impunity, A Conference of Asian and Latin American Lawyers: Jakarta, Indonesia, November 27 – December 2, 2000.* Quezon City: Asian Federation Against Involuntary Disappearances.



Asian Federation Against Involuntary Disappearances. (2005). *Healing Wounds, Mending Scars.* Quezon City: Asian Federation Against Involuntary Disappearances.



Asian Federation Against Involuntary Disappearances. (2008). *Reclaiming Stolen Lives.* Quezon City: Asian Federation Against Involuntary Disappearances.\*

**Primer:**

Asian Federation Against Involuntary Disappearances. (2009) *Respect the Right Not to be Disappeared: A Primer on the United Nations Convention on the Protection of All Persons from Enforced or Involuntary Disappearances.* Quezon City: Asian Federation Against Involuntary Disappearances.  
1/e- 5/e



**Audio-Visual Materials:**

Asian Federation Against Involuntary Disappearances. (Producer) (2005). *Healing Wounds, Mending Scars (Motion Picture).* Quezon City: Asian Federation Against Involuntary Disappearances.



Asian Federation Against Involuntary Disappearances. (Producer) (2005). *Desaparecidos Song: MTV (Motion Picture).* Quezon City: Asian Federation Against Involuntary Disappearances.

Osorio, Ria. (Composer, Lyricist), & Isaac, Francis (Lyricist). (2005). *Desaparecidos Song.* Quezon City: Asian Federation Against



**Newsletter:**

Asian Federation Against Involuntary Disappearances. (2000- ) *The Voice, 1-11*

\*Available in selected National Bookstore branches



Asian Federation Against Involuntary Disappearances (AFAD)

**AFAD**

The Asian Federation Against Involuntary Disappearances (AFAD) is a federation of human rights organizations working directly on the issue of involuntary disappearances in Asia.

Envisioning a world without *desaparecidos*, the Federation was founded on 4 June 1998 in Manila, Philippines. The Federation was established based on the common phenomena of enforced disappearances in many Asian countries and the imperative of regional and international solidarity in order to strongly respond to the problem.