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WORKING GROUP
ON ENFORCED OR INVOLUNTARY DISAPPEARANCES
68th session of the General Assembly
Third Committee
Item 69 (a and b)

24 October 2013
New York
Mr. President, Distinguished Delegates, Observers, Ladies and Gentlemen:

It is with great honor that I address this General Assembly, for the first time, in my capacity as Chair-Rapporteur of the United Nations Working Group on Enforced or Involuntary Disappearances. I share this work with four distinguished colleagues to whom I would like to pay tribute for their outstanding work and dedication to the mandate: my predecessor, Olivier de Frouville and Jasminka Dzumhur, Osman El Hajje and Jeremy Sarkin. Today I would like to address you about our vision on enforced disappearances and the role of the Working Group in the year we celebrate the first 100 sessions of the Working Group.

Enforced disappearance is a technique of terror. Enforced disappearances are not an accident, a police mistake or a consequence inherent to all armed conflict. The victims of enforced disappearances are not “people reported disappeared” or “missing”, lost out of sight in the turmoil of war, but the victims of a crime. Enforced disappearances are premeditated crimes, thought of and conceived of in advance, that deprive victims of their liberty, followed by a denial of that deprivation of liberty or the refusal to provide any information about their fate or the whereabouts, thus placing them outside the protection of the law. Today, enforced disappearance is recognized as a crime against humanity by the Declaration on the Protection of All Persons from Enforced Disappearance, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Rome Statute that created the International Criminal Court.

This technique of terror has been globalized. The Working Group has cases registered from 84 countries from all continents. Sadly, many countries continue to practice it, based on the misguided belief that it is an effective way to fight against those who are perceived as enemies of the State. Typically, persons are arrested, in an effort to obtain information and to dismantle illegal groups or simply to terrorize the civilian population and obtain obedience. It is used to counter terrorism, to fight organized crime or suppress legitimate movements demanding democracy and respect for human rights. The Working Group has also observed the use of “short term disappearances”, where victims are placed in secret detention or unknown locations without informing their relatives or lawyers, before being released some days or weeks later, sometimes
after having been tortured and without having been brought in front of a judge or other judicial authority.

While mindful of the need of States to prevent and react to acts of terrorism and to combat organized crime with usable intelligence and in real time, the absolute ban on enforced disappearances does not unduly limit the States’ ability to gather intelligence in legal and ethical ways. We need always to remember that, as the Declaration says, no circumstances whatsoever may justify enforced disappearances. We therefore congratulate those States that confront serious threats from terrorist organizations and organized crime groups with democratic security measures fully respectful of human rights standards.

Since its establishment in 1980, the Working Group has represented the hope that the United Nations would take action to help victims of enforced disappearances in their quest for truth, justice and reparation. For more than 30 years now, the Working Group has been mandated by States to act as a humanitarian “channel of communication” between governments and families, with a view to ascertaining the fate or the whereabouts of the disappeared. The first mandate of the Working Group, as entrusted by States, is to provide assistance to the families of disappeared persons. This must never be forgotten.

The brutal nature of enforced disappearances requires that all parties work quickly and constructively to ensure its eradication, and, when perpetrated, that the fate and whereabouts of the person are promptly determined, that there is no impunity, that relatives are treated with dignity and respect, and that reparations are secured. In responding to allegations of enforced disappearances and the need to eradicate them, we all need to re-double our efforts in approaching this difficult subject in a spirit of openness and good faith. Experience shows that the implementation of our mandate inevitably raises differences of opinion with regard to substance, interpretation and approach, all of which may cause some discomfort for some States and could be the subject of difficult discussions. The Working Group always tries to point out challenges fairly and objectively, and to acknowledge progress where it exists, while working diligently with stakeholders to achieve a world without enforced disappearances. We strongly believe in constructive and open dialogue in furthering our universally shared interest in
eradicating enforced disappearances worldwide and addressing its root causes. We thank all those States that engage in this frank and open dialogue with us.

I would like to turn your attention to our work on individual cases and to the responses we receive from States according to our humanitarian mandate. Dealing with individual cases is one of the most important and effective endeavors of the Working Group to protect victims of enforced disappearances and to secure the right to truth of their relatives. I cannot overemphasize the importance of the States taking substantive steps in duly investigating the cases that the Working Group transmits to them. I thank those Governments that have responded to our inquiries; but more importantly, I urge a better rate of response to our communications, particularly by seriously investigating the cases we transmit and informing the relatives and the Working Group of the results of such inquiries.

Under its urgent procedures, the Working Group has been quite effective in seeking to prevent the enforced disappearance of persons. However, in the last reporting period we regrettably transmitted 208 new cases of enforced disappearances to 21 countries. 59 of these cases were transmitted under the urgent action procedure to 12 countries. In addition to this, the Working Group intervenes urgently in cases of intimidation, persecution or reprisal against relatives of disappeared persons, witnesses or members of organisations of relatives or other non-governmental organizations.

Currently, the Working Group has more than 42,000 individual cases of enforced disappearances pending in its database. Each case represents a unique person, with a name, a date of birth, a particular story. Every year we remind the Governments concerned about these cases and ask for information for each one of the disappeared persons contained in our database.

We cannot say we are satisfied to have more than 42,000 cases of enforced disappearances without resolution in our database. But we must be clear: the Working Group acts in this regard in the strict framework of its methods of work, conceived to make sure that the clarification of a case is done in the absolute respect to the right to truth of the families of the disappeared. We do not accept any compromise in this respect: families have an absolute right to
know the truth regarding the fate or the whereabouts of their loved ones. As we have often said to the Governments with which we have regular dialogue: our dearest wish would be to resolve all the cases of enforced disappearance. Our objective is to bring the truth to the families and to put an end to their suffering as soon as possible. Each outstanding case in our database is therefore a synonym of failure for the Governments and the Working Group.

Even with those high numbers of cases, the Working Group has repeatedly drawn attention to the underreporting of disappearance cases in all regions of the world, particularly from Africa. The phenomenon occurs for various reasons, including fear of reprisals, ineffective reporting channels, restrictions on the work of civil society, and, unfortunately, a lack of awareness about the Working Group and its mandate.

The consequences of enforced disappearances transcend the person who has been disappeared. The victims of this ordeal are all those who suffer as a result of the crime often over generations. The relatives of a disappeared person will continue their search as long as his or her fate and whereabouts have not been established. Societies often continue for decades the struggle to secure truth, justice and reparations. In this regard, the continued suffering of victims and families is living proof that enforced disappearance is a continuous offence and a permanent violation of human rights.

We believe that efforts to combat enforced disappearances require a victim-centered perspective that seeks an integrated long-term approach to adequate justice, truth, memory and reparation. While international law and practice require certain minimum standards and principles in relation to reparations for victims of enforced disappearances as we highlighted in our last Annual Report, we are concerned that some States only award formal rights which are often modest and peripheral to the justice systems. Conversely, we are encouraged by the efforts of several States that have developed integral reparations programs for victims of enforced disappearances.

The Working Group acknowledges the work done by many relatives, associations of relatives, human rights defenders, NGOs, lawyers and all those who work indefatigably,
including in adverse conditions, to eradicate this terrible practice. We remain very much concerned about their situation in many countries. Almost every week we receive calls for urgent actions due to threats, intimidation or reprisals against them. The Working Group again calls upon States to take specific measures to prevent such acts, to protect those working on enforced disappearances and to punish the perpetrators.

Another problem we see – in these times of financial crisis – is that those courageous peoples who are mobilizing against enforced disappearances in their countries lack adequate funds. It is more and more difficult to find financial support for what is often perceived as a “ politicized” issue, especially when competing with other issues that may seem less problematic. This is an absolute shame. There is a responsibility of governments, societies and funders to strongly support those relatives and organizations who are only asking for justice, truth and reparation and who are taking all the risks, on behalf of all of us.

It is widely accepted that there is an absolute, jus cogens, prohibition of enforced disappearances, and a correlative absolute right not to be subjected to enforced disappearances. The consequence of this is that enforced disappearance is a serious crime in international law, with all the consequences flowing from it in terms of international responsibility of the State, but also in terms of international responsibility of individual perpetrators. States, Governments and individuals must be held accountable. We are encouraged by the efforts of States, particularly judges and prosecutors who are working hard to bring to justice those responsible for this crime. Nevertheless, the Working Group notes that in certain parts of the world, impunity for enforced disappearance remains a problem. For this reason, the Working Group reminds States of their obligations under the Declaration to prevent impunity by taking lawful and appropriate steps to bring to justice those alleged to have committed enforced disappearances. The Working Group calls upon States to prosecute individuals who have committed enforced disappearances by competent ordinary courts at all stages of the legal process.

States have demonstrated that securing the right to know the truth is possible through truth commissions, judicial investigations and national plans of search for the disappeared, among other initiatives. Nevertheless significant challenges remain as far as the right to the truth
is concerned. Finding the truth about the fate of disappeared persons implies exhumation and identification sometimes of thousands of victims. This is a very complicated, costly long-term task. We need to think more about how to help countries in transition that are willing to undertake this task but that do not have sufficient financial resources or technical capabilities. We are dissatisfied by the lack of progress in institutionalizing basic principles and guidelines that seek to establish the fate and whereabouts of victims of enforced disappearances. The Working Group stands ready to provide expertise and technical assistance to those countries. It is the Working Group’s conviction that the right to the truth in relation to enforced disappearances means the right to know about the progress and results of an investigation, the fate or the whereabouts of the disappeared persons, and the circumstances of the disappearances, and the identity of the perpetrator(s).

Our role as a special procedure of the Human Rights Council not only gives us an opportunity to assess the situation with regard to enforced disappearances. It also requires us to provide credible and human rights-friendly alternatives to combat and eradicate enforced disappearances and to develop studies and general comments that help all of us to better understand this phenomenon. Enforced disappearance is a complex crime and almost all fields of law are implicated: it is important to establish, as several States already have done, an autonomous crime of enforced disappearance and to submit this crime to universal jurisdiction. Civil status issues are also at stake, as the disappearance of persons leaves pending a whole range of matters, like marriage, inheritance and children’s guardianship. The disappearance and appropriation of children also create difficult problems. The proper identification of those stolen children can lead to the restitution of their true identity. In many cases, international cooperation is needed, due to the transnational nature of the practice.

Together, we also need to identify and develop new strategies to confront current day challenges. New policies should be adopted, creative techniques ought to be used and innovative means must be devised in order to resolve the individual cases of enforced disappearances, including those being examined by the Working Group. We are grateful for all the information that Governments provide illustrating the creative measures adopted. We have learned from best practices and from obstacles encountered.
Through our country mission reports, general comments and thematic studies we aim to shed light to these areas, needs and strategies. The Working Group is revisiting a number of issues relating to this complex crime in the light of new facts and situations, the information received, the need to identify new approaches as well as the evolution of international law.

Consequently, the Working Group has carried out studies and prepared general comments on multiple topics. We will continue to do so within our limited available resources. For instance, in 2013 we have adopted two General Comments, one on women affected by enforced disappearances (as disappeared persons, family members and as being very often at the forefront of the fight against enforced disappearances) where we applied a gender perspective to the phenomenon of enforced disappearances, and another on children and enforced disappearances (as disappeared and appropriated children, and as family members) in which we read the 1992 Declaration in light of the evolution of international law in this area, particularly taking into account the Convention on the Rights of the Child and other applicable standards. Our last annual report was devoted to new trends in the field of reparation. We are currently starting a study on the consequences of enforced disappearances on economic, social and cultural rights. Other issues we would like to look at in the coming years are the use of forensic analysis, and particularly DNA tests, in the search for the disappeared; the prevention of enforced disappearances, the role of habeas corpus; and enforced disappearances during armed conflicts. Strangely, international criminal law recognizes enforced disappearance as a crime against humanity, but not as a war crime.

Country visits allow us to carry out a proper assessment of the prevalence of enforced disappearances globally and the formulation of recommendations to address it through a process of open dialogue. They also allow the Working Group to highlight country practices in addressing enforced disappearances, to assist States in reducing obstacles to implement the Declaration, and to ensure direct contact with the family members of the victim. As such, visits are a crucial component of our work and mandate. We just concluded a visit to Spain, in response to an invitation from the Government. We thank the Government of Spain for the invitation to visit the country, for its broad and positive cooperation before and during the visit as
well as for the openness to dialogue and for the information provided. I also take this opportunity to express our appreciation to all States which have extended an invitation to the Working Group. At the same time, I call all States to which we have addressed a visit request to respond favourably to it.

Follow-up country visits are an important way to continue the process of reform and other measures aimed at eradicating enforced disappearances. In 2013, we included follow up reports to our visits to El Salvador and Morocco. I thank the Governments of El Salvador and Morocco for the cooperation provided during the follow up process. I encourage States that have been visited by the Working Group to conduct follow-up activities – including possibly follow-up visits – with the involvement of the Working Group.

Let me conclude by drawing attention to the fact that our work has been enriched by the activities and contributions of other mandates and mechanisms, particularly by the work of the Committee on Enforced Disappearances, and by the invaluable assistance of civil society organizations, and in particular associations of relatives. Since its creation the Committee on Enforced Disappearances has become a privileged interlocutor of the Working Group. The work of the two bodies is complementary. We held joint annual meetings and the two Chairs remain in constant contact, in order to exchange views on common issues, to share best practices, to act in a harmonized manner and, when appropriate, to carry out joint activities. As my colleague Emmanuel Decaux just underscored, the work of the two bodies is complementary: while the Committee only has jurisdiction on States parties, the Working Group can deal with any situation in the world; while the Committee deals with individual cases having commenced after the entry of the Convention for the States concerned, the Working Group continues to deal with the cases that occurred prior to this entry into force. The Committee will give legal views on the respect by States of the provisions of the Convention in individual cases, while the role of the Working Group stops when the fate or the whereabouts of the persons are ascertained.

I recognize the importance of this cooperation and thank those partners for their assistance upon which we rely and indeed contribute to their own work. Naturally, I also wish to
thank those States and their representatives who have made the eradication of enforced disappearances in our time a central tenet of their efforts to promote and protect human rights.

We cannot however hide from the challenges that lie ahead. To keep our work and the United Nations’ promise to the disappeared we need enough resources. The Working Group is grateful for the additional human resources given to it in 2013. We additionally thank the States that have been supportive of our mandate, in particular Argentina and France. Despite this support, however, the cumulative effect of lack of adequate staff during the past years has led to a backlog of hundreds of cases. This is also the reason why we continue to request the support of other States and call on the Office of the United Nations High Commissioner for Human Rights to make sure that we are able to fulfill our duties.

The Working Group continues to discharge its mandate with conviction, vigor and discipline. It remains committed to doing so but needs your support and cooperation to ensure that this heinous crime is eradicated. We must find new strategies and new methods to eliminate the crime of enforced disappearance and to reveal the truth on all the cases of disappearances from the past. For this, all of us are responsible.

Today, I call the General Assembly to renew its commitment to eradicate this heinous crime, to remind the principles of the Declaration and particularly to strongly reaffirm that ‘any act of enforced disappearance is an offence to human dignity’. I call all States to take immediate actions to demonstrate their resolve against this shameful practice making it a crime of the past, including signing and ratifying the International Convention for the Protection of all Persons from Enforced Disappearance; securing truth by developing national plans to search for the disappeared; insuring justice by breaking the cycle of impunity that too often surrounds this crime; providing reparations for the victims; and properly supporting and cooperating with the Working Group.

I thank you for your attention.