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Human Rights Council Working Group on Enforced or Involuntary Disappearances

Post-sessional document

101st session (4–13 November 2013)

I. Introduction

1. The present document reflects activities conducted and communications and cases examined by the Working Group on Enforced or Involuntary Disappearances at its 101st session, held from 4 to 13 November 2013.

II. Activities

2. On 8 November 2013, the Working Group held an expert consultation on enforced disappearances and economic, social and cultural rights. During the half-day thematic discussion, experts from various regions of the world exchanged views on the indivisibility of human rights and the relationship between enforced disappearances and economic, social and cultural rights. The Working Group will report on this subject to the Human Rights Council in 2014.

III. Communications

3. Between its 100th and 101st sessions, the Working Group transmitted 18 cases under its urgent action procedure, to Iraq (7), Nepal (1), Pakistan (1), Peru (1), the Syrian Arab Republic (4), the United Arab Emirates (1) and Yemen (3).

4. At its 101st session, the Working Group decided to transmit 41 newly reported cases of enforced disappearance to 10 States. The Working Group also clarified 15 cases, concerning Chile (5), Namibia (1), Pakistan (2), Saudi Arabia (1), Sri Lanka (3), the Syrian Arab Republic (2) and the United Arab Emirates (1). Of the 15 cases, 8 were clarified on the basis of information provided by Governments, and 7 on the basis of information provided by sources.

5. Between its 100th and 101st sessions, under its prompt intervention procedure, the Working Group transmitted six communications jointly with other special procedures mechanisms, to Algeria (2), Colombia (2) and Kenya (2). The Working Group also

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transmitted nine urgent appeals, jointly with other special procedures mechanisms, concerning persons who had been arrested, detained, abducted or otherwise deprived of their liberty or who had been forcibly disappeared or were at risk of disappearance in Bahrain, China, Kazakhstan, the Russian Federation, the Sudan and the Syrian Arab Republic.

6. During its 101st session, the Working Group also reviewed five general allegations concerning Colombia, Guatemala, Indonesia, Mexico and Morocco.

IV. Information concerning enforced or involuntary disappearances in States reviewed by the Working Group during the session

1. Albania

Information from the Government

7. On 25 October 2013, the Government transmitted a communication regarding one outstanding case. The information provided was not considered sufficient to lead to clarification of the case.

Information from sources

8. Sources provided information on one outstanding case.

2. Algeria

Prompt intervention letter

9. On 20 August 2013, the Working Group transmitted a prompt intervention letter concerning the alleged excessive use of force against and subsequent arrest of relatives of victims of enforced disappearances during a peaceful demonstration on 27 June 2013, on the occasion of the United Nations International Day in Support of Victims of Torture.

10. On 18 October 2013, the Working Group transmitted another prompt intervention letter concerning the alleged excessive use of force against and subsequent arrest of relatives of victims of enforced disappearances during a peaceful demonstration on 29 September 2013. The demonstration had been organized to denounce the provisions of the Charter for Peace and National Reconciliation.

Information from the Government

11. The Working Group continued to process the information that had been transmitted by the Government on 5 February 2013. Information concerning 100 outstanding cases was reviewed during the session and was not considered sufficient to lead to clarification of the cases.

Information from sources

12. Sources provided information on seven outstanding cases.

Observations

13. Regarding the alleged excessive use of force against relatives of victims of enforced disappearances mentioned in the prompt intervention letters, the Working Group would like

means that, for instance, members of guerrilla groups (whether actual or perceived) who were victims of enforced disappearance would not be considered as such, and that their families would be deprived of the right to reparation and to the truth. The source also alleges that the so-called Legal Framework for Peace contains several provisions contrary to the right to justice for families.

41. Furthermore, the source indicates that members of organizations of relatives of the disappeared have allegedly constantly been threatened and been the victims of attacks. In that regard, it is noted that, on 24 January 2013, Martha Elena Díaz Ospina, founder and President of the Association of Families United by a Single Sorrow (AFUSODO), an organization that supports mothers of victims of enforced disappearances at the hands of the military, and a member of the Atlantic branch of the National Movement for Victims of State Crimes, received a death threat signed by the paramilitary group Los Rastrojos. Between July and September 2012, a number of threats against the Association of Relatives of the Disappeared (ASFADDES) and its members were reported; incidents of surveillance and photo-taking directed at the organization were also reported. The source also reported that the Nydia Erika Bautista Foundation for Human Rights (FNEB) and its directors had allegedly been the subject of repeated illegal intelligence operations. For example, in late November 2012, FNEB reported the monitoring and surveillance of the Foundation by a police officer, as well as by an individual travelling in an official vehicle. Despite having been documented and reported, those incidents have allegedly not been investigated. The source emphasizes that FNEB has been under State protection since mid-2011.

Observations

42. The Working Group is deeply concerned about the alleged murder of, or death threats against, lawyers working on cases of enforced disappearance. In this respect, the Working Group would like to recall article 13 of the Declaration, which provides that “steps shall be taken to ensure that all involved in the investigation [of an enforced disappearance], including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal” (para. 3) and that “steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished” (para. 5).

11. Democratic People’s Republic of Korea

Standard procedure

43. The Working Group transmitted 12 cases under its standard procedure. In accordance with the Working Group’s methods of work, the Government of the Republic of Korea received copies of those cases.

44. The first case concerned Mr. **Gi-man Eom**, who was allegedly abducted on 7 August 1968, when *Deoksu-2 ho*, the fishing boat he worked on, was reportedly captured by forces of the Democratic People’s Republic of Korea. Mr. Eom was below the age of 18 at the time of the alleged abduction.

45. The second case concerned Mr. **Gwang-mo Jeong**, who was allegedly abducted on 5 June 1970, when *I-2*, the navy ship Mr. Jeong served on, was reportedly captured by forces of the Democratic People’s Republic of Korea.

46. The third case concerned Mr. **Dal-young Kim**, who was allegedly abducted on 4 February 1972, when the boat he worked on, *Anyoung 35-ho*, was reportedly forced into Democratic People’s Republic of Korea waters by armed vessels of the Democratic People’s Republic of Korea.

47. The fourth and fifth cases concerned Mr. **Mu-su Nam** and Mr. **Jeong-yeol Nam**, also known as Jeong-lyeol Nam, who were allegedly abducted on 9 June 1972, when *Yupungho*, the fishing boat they worked on, was reportedly captured by forces of the Democratic People's Republic of Korea.

48. The sixth case concerned Mr. **Hyeob-ju Park**, who was allegedly abducted on 15 February 1974, when *Suwon-ho* 33, the fishing boat he worked on, was reportedly captured by forces of the Democratic People's Republic of Korea.

49. The seventh and eighth cases concerned Mr. **Seung-min Choi**, below the age of 18 at the time of the alleged abduction, and Mr. **Min-kyo Lee**, who were allegedly abducted in August 1977 by an agent of the Democratic People's Republic of Korea when they were on holiday on Hongdo Island.

50. The ninth and tenth cases concerned Mr. **Young-shik Hwang** and Mr. **Wan-sang Jeong**, who were allegedly abducted on 6 January, 1971, when *Huiyoung* 37, the fishing boat they worked on, was reportedly captured by forces of the Democratic People's Republic of Korea in the Yellow Sea.

51. The eleventh and twelfth cases concerned Mr. **Byeong-gi Lee** and Mr. **Jang-won Kim**, who were allegedly abducted on 20 November 1965, when *Myeongdeok-ho*, the fishing boat they worked on, was reportedly captured by forces of the Democratic People's Republic of Korea in the Sea of Japan.

Information from the Government

52. On 7 October 2013, the Government transmitted a communication regarding one outstanding case. The information provided was not considered sufficient to lead to the clarification of the case.

12. Dominican Republic

Information from the Government

53. On 2 July 2013, the Government transmitted a communication regarding one outstanding case. The information provided was not considered sufficient to lead to clarification of the case.

Observations

54. The Working Group would like to recall that, under its humanitarian mandate, it may consider cases even when they are considered by other human rights mechanisms.

13. Guatemala

General allegation

55. The Working Group received information from reliable sources on obstacles encountered in the implementation in Guatemala of the Declaration on the Protection of All Persons from Enforced Disappearance.

56. It is alleged that, during the armed conflict in Guatemala (1962–1996), the enforced disappearance of persons was a systematic practice of the State security forces. According to the information received, more than 45,000 people were forcibly disappeared; few of those cases have been resolved, with those responsible duly tried and convicted.