



INTERNATIONAL DAY OF THE
VICTIMS OF ENFORCED DISAPPEARANCES
30TH AUGUST



Geneva International Centre *for* Justice
(GICJ)

www.gicj.org

Contents

Introduction	1
Implications of Enforced Disappearances	2
The Most Affected Countries through history and at present times.....	4
Iraq	4
Sri Lanka.....	6
Argentina.....	6
El Salvador.....	10
Syria	12
Yemen	13
GICJ's Fight for Justice.	14

International Day of the Victims of Enforced Disappearances

Introduction

Every year around the globe, thousands of people get abruptly arrested by their governments without legitimate charges nor prior notification, and incarcerated in unknown locations. Political opponents, public demonstrators, journalists, human rights defenders and lawyers simply vanish amidst government dictatorships, while some other victims disappear due to ethnic or religious frictions. Although most of the victims are men, women who disappear are more likely to suffer sexual violence.



Russian demonstrators calling for new elections, 2011 (www.abcnews.go.com)

In 2010 the United Nations General Assembly declared that, from 2011 henceforth, 30 August would be observed as the International Day of the Victims of Enforced Disappearances.¹ Geneva International Centre for Justice (GICJ) notes that the Declaration on the Protection of All Persons from Enforced Disappearance²; and the International Convention for the Protection of All Persons from Enforced Disappearance (both adopted by the UN-General Assembly³), explain that a enforced disappearance occurs when an individual is deprived of liberty by

¹ resolution 65/209 of 21 December 2010.

² Resolution 47/133 of 18 December 1992.

³ Resolution 61/177 adopted in 20 December 2006. In accordance with its article 39 (1), the Convention entered into force on 23 December 2010.

agents of the State, followed by the denial of revealing the whereabouts of the abductees, or the denial of acknowledging the deprivation of liberty, which entails that detainees are treated outside a regular legal framework. The act of carrying out enforced disappearances also breaches other International Human Right Instruments such as, *inter alia*, the Standard Minimum Rules for the Treatment of Prisoners, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Likewise, as declared in the Rome Statute of the International Criminal Court, which came into force on 1 July 2002, enforced disappearance of persons is considered a Crime Against Humanity, and a complete violation to international human rights law.



(www.cencos.wordpress.com)

In Mexico, according to data from the National Registry of Missing Persons (RNPED), there are more than 28 thousand people disappeared from 2007 to 2016.

Implications of Enforced Disappearances

Geneva International Centre for Justice also notes that enforced disappearances are detrimental to the enjoyment of the rights comprised in the International Covenant on Economic, Social and Cultural Rights, such as the right to health, education, and to an adequate standard of living, for both the victims and their families. Since the absence of the main provider leaves the family in extreme need, the latter can't enjoy such rights. Thus, this violation to international human rights affects not only the direct victims who are constantly ill-treated, tortured and living with

scarce hopes of being found; but also, it affects the families as they suffer endless anguish of not knowing if the missing person is still alive, their whereabouts and their conditions. Families also live with the pain of not knowing whether their loved one will ever return, and they are usually threatened of suffering the same unknown fate if they ever decide to investigate and denounce their findings. Equally important to mention, the community of the disappeared ones also suffer from anxiety as this practice is used as a technique to frighten society and to generate an environment of generalized dread. Moreover, enforced disappearance is often a gateway to the commission of other offences, most particularly torture. Survivors of enforced disappearances described being subjected to torture during their detention. In most of the cases of enforced disappearances, the victims are denied their fundamental right to due process.



(www.yancuic.com)

The latest statistics from the UN Working Group on Enforced or Involuntary Disappearances⁴ shows that the countries with the highest number of reported cases, between 1980 and 2016, are Iraq (16,413), Sri Lanka (5,758), Argentina (3,244), Algeria (3,139), Guatemala (2,897), Peru (2,365) and El Salvador (2,282). However, these figures do not include the hundreds of cases not reported by the Governments' statistics, and the unreported cases by afraid families of retaliatory threats.

The report of the Working Group also highlights the topic in its direct relation to migrants, explaining that people also migrate due to enforced disappearances of their relatives, aiming to

⁴ A/HRC/33/51

avoid reprisals for their attempts to seek justice. Furthermore, in many cases migrants disappear during deportation procedures owing to certain levels of secrecy of those detentions, also because migrants have very limited access to the local justice-system and many of them enter a country irregularly, therefore are somehow invisible.



www.ibtimes.co.uk (Getty)

The mother of a disappeared Lebanese decorates a tree with photographs of victims allegedly being captured in the Syrian Arab Republic.

The Most Affected Countries through history and at present times.

Iraq

Iraq represents to be the state with the highest rates of disappearances. Across the country, disappearances are still perpetrated with impunity by pro-government militias, and also by opposing militias.

Since the war emerged in 2003 in Iraq, thousands of people have dedicated to search for their missing relatives and friends. The number of reported and not reported cases of disappeared

persons in the country is estimated to range between 250,000 to up to one million people. Unfortunately, their fates and whereabouts continue to be unknown. Likewise, after the troops' withdrawal in 2011, thousands of people have been arrested around the country, as part of an operation launched by the security forces against members of the banned Ba'ath party. Many of the disappeared ones, to this day, are likely to be perishing in secret prisons without charges. Furthermore, the secret US prisons in Iraq, together with the large number of Iraq's secret prisons (estimated over 420 secret prisons), have caused a colossal number of cases of enforced disappearances.



www.gicj.org

Disappearances are not isolated to one region, they occur in Baghdad, Diyala Province, Kirkuk, Basra and across the country. Since it has become so difficult to track and store data about human rights abuses, the overall number of disappearances is likely to be more immense.

Iraq, as a member of Convention for the Protection of All Persons from Enforced Disappearance, was the 20th country to implement its ratification, in 2010.⁵

Sri Lanka

In Sri Lanka, there is estimated to be between 60,000 to 100,000 cases of enforced disappearance since the 1980s.

In 1989 and 1990, thousands of Sinhalese people were forcibly disappeared by government death- squads on suspicion of having links with leftist groups. Likewise, during the Sri Lankan Civil War from 1983 to 2009, tens of thousands of Tamils suspected of having links to the militant organization called Liberation Tigers of Tamil Eelam- LTTE, disappeared by military, paramilitary and police raids.

Additionally, journalists, human rights defenders, aid workers, and community leaders have become victims of enforced disappearance at various episodes of the conflict.

Sri Lanka has ratified the International Convention for the Protection of All Persons from Enforced Disappearance in 2016.



(www.ceylonjournals.com)

Argentina

Throughout Argentina's military dictatorship and the Dirty War (from 1974 to 1983), thousands of political dissidents were abducted, imprisoned, and tortured. The Report of the Working Group on Enforced or Involuntary Disappearances on the country-visit to Argentina in 2008,⁶

⁵ http://www.gicj.org/NOG_REPORTS_HRC_22/disappearances.pdf

⁶ A/HRC/10/9/Add.1

states that disappearances have been carried out systematically, following the coup d'état of March 24th of 1976.

Reports from Argentine human rights NGOs have estimated that more than 30,000 people disappeared during the military dictatorship. Additionally, the enforced disappearance of children and children born in captivity have also taken place during that period, as children were stolen from their families by military leaders.



(laradiodelsur.com)

Different Organizations and Associations have worked on the issue pursuing to clarify the fate, identity and whereabouts of the victims. “Abuelas de Plaza de Mayo” (Grandmothers of the Plaza de Mayo), an Argentine Non-

Governmental association whose goal is to locate and restore to their legitimate families all the children disappeared by the dictatorship⁷, has received about 400 reports of missing children cases, and it has clarified the whereabouts or fate of 95 children. the UN Working Group has received 3,445 cases of enforced disappearances in the country, of which around 96% are still pending clarification on the whereabouts or fate of the victims. The massive way this military dictatorship developed enforced disappearances in the country was one of the main causes that led to the establishment of the Working Group on Enforced or Involuntary Disappearances (in 1980). Unfortunately, even when democracy was restored, the Argentine State adopted, at different times in its history, measures that favoured impunity and caused detriments and step-backs to human rights. Despite that, the road to justice and reparation of the relatives of the victims, has further progressed. Argentina has ratified the International Convention for the Protection of All Persons from Enforced Disappearance in 2007.

⁷ <https://www.abuelas.org.ar/abuelas/historia-9>

Algeria

In the 1990s, an Islamist insurgency had the project of establishing an Islamic State in Algeria, but in February of 1992, the Government decided to interrupt legislative elections and to ban the Islamic Salvation Front (FIS). Motivated by this decision, Islamists began to launch armed attacks everywhere, targeting members of the security forces and assassinating civilians. As a result, the State confronted the violence with a raft of repressive practices: the practice of enforced disappearances emerged in the mid-1990s, at a time when political violence was at its peak. Between 1992 and 1998, Algerian security forces abducted over 7,000 persons⁸. During the same period, armed groups opposing the government also kidnapped thousands of people and the destiny of those disappeared remains unknown to present days.



(www.alkarama.org)

An Algerian woman who fought a constant struggle for nearly 20 years to learn the truth about her husband and son.

In May 2001, the interior minister declared having registered 4,880 missing-person complaints; with no indication of what portion of those cases was attributable to state agents. A year later, the Gendarmerie reportedly acknowledged receiving a total of 7,046 complaints. On the other hand, Amnesty International stated that it has information on some 4,000 cases inside Algeria,

⁸ Report: *Time for reckoning: Enforced Disappearances and Abductions in Algeria*, 2003. Human Rights Watch. Available at <https://www.hrw.org/report/2003/02/26/time-reckoning/enforced-disappearances-algeria>

and the Association Nationale de Familles de Disparus (ANFD), stated it has registered 7,200 cases.

Today, disappearances have substantially ceased in the country, but not one person accused has been brought to trial. However, Argelian government discourse on the disappearances has evolved over the years, owing to domestic and international pressure.

Argelia has signed the International Convention for the Protection of All Persons from Enforced Disappearance in 2007, but did not ratify the latter.

Guatemala



(www.gettyimages.fr)

Indigenous women hold placards with pictures of persons missing since the civil war in Guatemala, during the International Day of the Victims of Enforced Disappearances, in Guatemala City on August 30, 2016. / AFP / JOHAN

According to Report of the Commission for Historical Clarification, during Guatemala's 36-year civil war, there is estimated to be over 45,000 victims of enforced disappearances.

The Report of the Working Group on Enforced or Involuntary

Disappearances on the country-visit to Guatemala in 2006⁹ explains that the internal armed conflict began in 1960 when a group

of army officers rebelled against the military Government over corruption accusations. The officers fled to the mountains, in the east of Guatemala, where they began a war that turned into a Marxist movement with the fundamental objective to overthrow the Government. As a result of the turmoil, the Mayan population was especially affected by harsh treatment of the army. Disappearances in the country started to occur in the mid-1960s. At first, the practice

⁹ A/HRC/4/41/Add.1

took place in areas where there were armed opposition groups, but then it spread to all the country.

The internal conflict reached its end on December 1996, when the Government of Guatemala and the Guatemalan National Revolutionary Unit (Unidad Revolucionaria Nacional Guatemalteca - URNG) signed the Agreement on a Firm and Lasting Peace. In the same year, the crime of enforced disappearance was introduced into Guatemalan law. In July 2009, the Constitutional Court decided that the crime of Enforced Disappearance continues to be open and flaming until the fate of the disappeared person is revealed. That decision has opened the door to prosecutions for the thousands of enforced disappearances in the country, and it put an end to the impunity that has governed theretofore.

However, that was only the first step on a long road towards accountability. The Working Group has received a report prepared by several human rights organizations, which refers to cases of attacks, acts of intimidation, threats and reprisals to several organizations and individuals. The Working Group has also received 3,152 reported cases, of which 92% are still pending clarification with respect to the whereabouts or the fate of the victims.

Guatemala has signed the International Convention for the Protection of All Persons from Enforced Disappearance in 2007, but did not ratify the latter.

El Salvador

In 1980, five opposition organizations formed the “Farabundo Martí National Liberation Front” (Frente Farabundo Martí para la Liberación Nacional, FMLN), and launched an offensive with the aim of defeating the military power. As a result, civil war erupted, leaving a death toll of more than 75,000, fundamentally due to repression acts carried out by the State. In addition, the Salvadoran armed forces (Fuerza Armada de El Salvador, FAES) implemented a premeditated strategy to eradicate the rural population, and perpetrated the massacre in El Mozote, where troops murdered a number of innocent peasants in 1981. The armed conflict came to its end in 1992, when the Government and left-wing guerrillas signed the Peace Accords, which gave course to a number of military, social and political reforms.



(www.telesurtv.net)

People carry a picture of late Archbishop Oscar Arnulfo Romero in El Salvador 2015. One of his main causes during the country's civil war, was forced disappearances. Photo: Reuters

The Report of the Working Group on Enforced or Involuntary Disappearances on the country-visit to El Salvador, in 2007¹⁰ describes how enforced disappearances were practised systematically before and during the years of internal armed conflict, as it can be corroborated by the reports of divers Salvadoran NGOs who estimated more than 8,000 individuals disappeared during the Salvadoran armed conflict. Disappearances took place in the country, during operations of detention and disappearance of persons suspected of being government opponents, with the aim of eliminating persons who might potentially become insurgent. Enforced disappearance of children also took place during the period of the armed conflict in El Salvador. The children were abducted during the execution of their families, and often taken away by military chiefs who brought them as their own children.

El Salvador did not sign nor ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

¹⁰ A/HRC/7/2/Add.2

Syria

The Syrian Arab Republic's turmoil commenced in 2011 with protests against President Bashar al-Assad, and it has quickly descended into a civil war. More than 106,727 people were forcibly disappeared and arbitrarily arrested from March 2011 to June 2017, based to recent data of the Syrian Network for Human Rights. Additionally, the Syrian Network for Human Rights, has reported 3,157 cases of arbitrary arrest and enforced-disappearance, only in the first half of 2017.

Most of the disappearances have been perpetrated by security officers and the Syrian army, in conjunction with pro-government militias. Across the country, human rights defenders, journalists and lawyers continue to be targeted to arbitrary arrests, abductions, enforced disappearances, and executions at secret detention centres, because of their professional activities. As reported by survivors' testimonies, detainees are put into small and overcrowded prisons that offer catastrophic conditions. They have no access to food, water, sunlight nor medical treatment, and they daily suffer from all types of torture including burning and rape.



(www.aljazeera.com)

February 2017.- Demonstrators in Geneva calling for an end to the practice of enforced disappearances in Syria.

To make matters worse, Amnesty International and other Human Rights Organizations have gathered proofs to accuse the Syria's government of profiting within a black market, in which people has to pay high amounts of money to find their missing relatives¹¹.

Furthermore, the country has a history of enforced disappearances dating back to before the current conflict, as there was a major human rights concern during the rule of Hafez al-Assad, president of Syria from 1971 to his death in 2000. The Syrian Arab Republic did not ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Yemen

The Huthi armed group, together with former President Ali Abdullah Saleh forces, which have controlled large parts of Yemen since 2014, have committed numerous arbitrary arrests and detentions, as well as enforced disappearances and torture to its opponents. The Huthi-Saleh group took control of Sana'a, Yemen's capital, in September 2014 and it intensified repression activities after the Saudi Arabia-led coalition started their military campaign in March 2015, in support of the internationally recognized government, lead by Mr. Abd Rabbuh Mansur al-Hadi. The fighting for power has been ruthless in the country, and the warring parties have shown no mercy for civilians' lives. The civil war has approximately brought a 3,000-death toll, and over 2.8 million internally displaced persons.

In the midst of the brutal battle, the Huthi armed group has the objective to wipe out those opposing, in the areas under its control. Their deliberate strategy has been based on debilitating human rights defenders, journalists and opposition figures by conducting arbitrary detentions at their homes, work places, or during protests, holding them in secret locations, refusing to acknowledge their detention or to disclose any information to their families. The exact number of individuals who have been, or are currently disappeared in areas under Huthi control has been difficult to establish in the country, partly because of the secretive nature of arrest and detention practices.

¹¹ <http://www.bbc.com/news/world-middle-east-34732463>



(www.amnesty.ie)

Yemen has several antecedents in enforced disappearances even before the outbreak of the current civil war. The latest report of the Working Group on Enforced or Involuntary Disappearances on the country-visit to Yemen, in 1998¹² explains that civilians have been subjected to enforced disappearances, between January and April 1986 in the context of a civil war that took place between the two factions of the Yemeni Socialist Party in the former People's Democratic Republic of Yemen. The majority of the disappeared belonged to the faction that was defeated and it included members of the air force, the security forces, and also civilians.

Yemen did not sign nor ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

GICJ's Fight for Justice.

Geneva International Centre for Justice has worked closely with NGOs and human rights activists gathering evidence on Enforced Disappearance, and it has repeatedly reported these facts to the UN Human Rights Council and other Human Rights bodies. In this sense, GICJ has participated in sessions of the United Nations Committee on Enforced Disappearances. In the

¹² E/CN.4/1999/62/Add.1

9th session of the Committee, from 7 to 18 September 2015 , it has submitted reports on Enforced Disappearances in the country of Iraq, expressing its serious concern about the systematic practice of arbitrary arrest and abduction by the Iraqi authorities and its affiliated militias, resulting in enforced disappearances.¹³ Likewise, GICJ has reported about the lack of proper procedures for registering detainees in Iraq, and about the fact that there exists a large number of armed security bodies in the country, which makes arrests unclear of the exact authority carrying the detention. GICJ has received many communications denouncing that those who carry out the arrests are armed and driving government vehicles, so presumably they are affiliated with government security forces. Nevertheless, the Iraqi government has denied such arrests, not communicating the whereabouts of the detainees to their families.



(www.gicj.com)

Additionally, at the sessions of the Human Rights Council, GICJ continuously addresses that the Iraqi security forces – supported by the U.S-led coalition and government militia soldiers- have conducted a reckless fight in a number of cities, beating innocent men, arbitrarily killing prisoners, indiscriminately targeting civilian households, and committing brutal abuses including torture, rape, and enforced disappearance to civilians, with the excuse of fighting ISIS.

¹³ <http://www.gicj.org/98-conferences-meetings/committee-on-enforced-disappearances-9th-session/362-press-release-gicj-report-on-enforced-disappearances-in-iraq>

GICJ's Position and Recommendations

GICJ urges the International Community and all relevant UN bodies to take an effective role in ensuring that States cease any act of intimidation or reprisals against those who contribute to the fight against violations to human rights, as well as guaranteeing that any form of interference during investigation procedures is appropriately punished.

Additionally, GICJ maintains that States have an obligation, in the framework of the International Convention for the Protection of All Persons from Enforced Disappearance, to implement effective legislative and judicial measures to prevent and stop this arbitrary practice, and to prosecute those suspected of the crimes at all levels.

Furthermore, GICJ recommends that special attention should be paid to the most vulnerable groups to this crime, such as women and children; and that all deportation procedures should be properly documented to avoid disappearances of migrants.

Moreover, GICJ firmly maintains that all States should ensure the disclosure of the truth regarding what happened to victims of disappearances, and provide reparation to victims and their families, to address the harm they have suffered, including restitution, compensation, and rehabilitation mechanisms.

Likewise, GICJ stresses that the Universal Declaration of Human Rights declares the right to liberty, the right to recognition before the law, and the right to judicial guarantees for all people. In addition, the 2030 Agenda for Sustainable Development promotes the rule of law, aiming to ensure equal access to justice, to end impunity, and protect human rights.

Lastly, on this International Day of the Victims of Enforced Disappearances, GICJ desires to show sincere solidarity with the victims and their relatives by condemning this ongoing crime and abuse of power in the hands of arbitrary dictatorships in the world.



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