



Economic and Social Council

Distr.
GENERAL

E/CN.4/2003/70*
21 January 2003

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Item 11 (b) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Question of enforced or involuntary disappearances

Report of the Working Group on Enforced or Involuntary Disappearances

Submitted in accordance with Commission resolution 2002/41

* Reissued for technical reasons.

Executive summary

The present report of the Working Group retains the emphasis on further developments in respect of two basic elements of the situation of enforced or involuntary disappearance worldwide.

The first - new cases - relates to the practice of disappearance, which persists in a number of countries. During 2002, the Working Group transmitted 120 new cases of disappearance in respect of 24 countries; 63 of these cases occurred in 2002. As at the last day of its sixty-eighth session, on 13 November 2002, the Working Group had 41,618 outstanding cases on its registers. During 2002, the Working Group transmitted 65 cases under its urgent action procedure to the Governments of 13 countries. The highest number of cases of enforced or involuntary disappearance in 2002 allegedly occurred in Nepal (28) and Colombia (14). Since its inception, the Working Group has transmitted a total of 49,872 cases to Governments.

At the time of writing, the backlog relative to incoming reports of enforced or involuntary disappearances that remain to be processed - prior to consideration by the Working Group - totals in excess of 3,000. This inhibits the accurate representation and evaluation of the effective number of cases in the Working Group's files.

The second basic element of the phenomenon of enforced disappearance relates to the clarification process, particularly of those cases transmitted more than 10 years ago. During 2002, the Working Group clarified a total of 302 cases of enforced disappearance, of which Sudan accounted for 198 cases. It would be appropriate to note that the total clarification figure shown does not accurately reflect the situation which obtains, as the 12,550 Government replies which remain to be processed are likely to affect the final figure for cases clarified. Despite the fact that 5,255 cases have been clarified in the last five years, the Working Group still confronts a backlog of 41,618 outstanding cases. During 2002, consequent to the Group's innovative approach in inviting Governments with large numbers of unresolved cases - dating back in certain instances to the 1970s - to consider ways and means, in cooperation with families and civil society, for providing justice to the victims and for clarifying new cases, the Group has received concrete assistance and strong cooperation from a number of Governments, notably Algeria, Angola, India, Lebanon, Mexico, Morocco, and Sri Lanka. In the past, the Working Group had reported on the pronounced cooperative attitude on the part of Governments,

namely those of Brazil, Mexico and Sri Lanka. The Working Group remains, nonetheless, very concerned that of the 78 countries with outstanding cases, some Governments (Burkina Faso, Burundi, Cambodia, Congo, Equatorial Guinea, Guinea, Israel, Mozambique, Namibia, Rwanda, Seychelles, Tajikistan, Togo), as well as the Palestinian Authority, have never replied to its requests for information or its reminders.

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Introduction

1. The present report of the Working Group on Enforced or Involuntary Disappearances is submitted pursuant to Commission on Human Rights resolution 2002/41, entitled "Question of enforced or involuntary disappearances".¹ In addition to the specific tasks entrusted to the Working Group by the Commission in this resolution, the Group has also taken into account other mandates stemming from a number of resolutions adopted by the Commission, entrusted to all special rapporteurs and working groups, all of which have been given due attention and consideration by the Working Group in the course of 2002.

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II. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES IN VARIOUS COUNTRIES AND THE PALESTINIAN AUTHORITY REVIEWED BY THE WORKING GROUP

21. During the period under review, the Working Group received no new information concerning Afghanistan, Cambodia, the Congo, Dominican Republic, Eritrea, Greece, Guinea, Haiti, Israel, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Mauritania, Mozambique, Namibia, Paraguay, Seychelles, Tajikistan, Togo, Uganda, as well as the Palestinian Authority (see previous report of the Working Group, E/CN.4/2002/79).

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Lebanon

164. During the period under review, the Working Group transmitted three new cases of disappearance to the Government of Lebanon. During the same period, the Working Group retransmitted one case to the Government, updated with new information from the source. Regarding the newly reported cases transmitted after 15 September 2002, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

165. The majority of the 312 cases of disappearance reported in the past occurred in 1982 and 1983 in the context of the Lebanese civil war. The forces allegedly responsible were cited as members of the Phalangist militia, the Lebanese army or its security forces; reportedly, in some cases, the Israeli army, acting together with one or other of these forces, were involved. A number of cases concern persons who were reportedly arrested at the Sabra and Chatila refugee camps in September 1982. Some cases concern foreign nationals who were allegedly abducted in Beirut in 1984, 1985 and 1987. A few cases concern persons who were allegedly arrested between 1976 and 2000 by the Syrian army or security services at checkpoints, or abducted by the Hezbollah, and transferred to the Syrian Arab Republic. In accordance with its methods of work, copies of these cases were also sent to the Government of the Syrian Arab Republic.

166. The newly reported cases concern three military personnel, of whom one was allegedly abducted in 1982 by members of the *Parti Social National Syrien* at the time of the Israeli invasion, and two others who were allegedly arrested or abducted in 1990 on the day that the Syrian Army reportedly occupied eastern Beirut.

167. In the past, the Working Group clarified eight cases, of which two were clarified on the basis of information provided by the Government and six on the basis of information provided by the source. No new information was received from the Government in respect of the 304 outstanding cases. The Working Group is, therefore, unable to report on the fate and whereabouts of the persons concerned.

Observations

168. The Working Group, while understanding the difficult situation in Lebanon, remains concerned that only 2 out of 312 cases have been clarified by the Government.

169. It wishes to remind the Government of its obligation under article 2 of the Declaration not to practise, permit or tolerate enforced disappearances even if such acts are allegedly carried out by the authorities of another State. It is the obligation of the Government of Lebanon to take all effective legislative, administrative, judicial or other measures to prevent, terminate and investigate all acts of enforced disappearance in any territory under its jurisdiction and to bring the perpetrators to justice.

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Syrian Arab Republic

260. During the period under review, four new cases of disappearance were transmitted by the Working Group to the Government of the Syrian Arab Republic. These cases were only recently transmitted and, in accordance with its methods of work, it must be understood that the Government could not respond prior to the adoption of the present report.

261. Most of the 32 cases of disappearance reported in the past occurred between 1980 and 1993, for which the security forces or military intelligence were allegedly responsible. The victims include, among others, students, medical doctors and military personnel. Two cases concern Jordanian nationals and another concerns a citizen of Lebanon. In the past, concern was expressed to the Working Group about the whereabouts of both Lebanese citizens and stateless Palestinians who were reported to have disappeared in Lebanon, a circumstance for which the Government of the Syrian Arab Republic was allegedly responsible. (See also section on Lebanon, paragraphs 164-169.)

262. The newly reported cases occurred between 1981 and 1994. Two concern Lebanese military personnel who reportedly disappeared in or around Beirut and were allegedly seen in the "Palestine Section", an interrogation centre, in Damascus, Syria; two others concern persons, including a musician, who were allegedly arrested in Lebanon and last seen in Syria at the Tadmor or Saydnaya prison. (See also section on Lebanon, paragraphs 164-169.)

263. During the period under review, the Government provided information on its investigations into the four newly reported cases. The persons concerned could not be found among those detained in Syria; however, the concerned authorities will continue to investigate and inform the Chairman of the Working Group of the results.

264. In the past, the Working Group clarified 27 cases, of which 13 were clarified on the basis of information provided by the Government and 14 on the basis of information provided by the source. During the period under review, the secretariat of the Working Group was unable to send out reminders, in accordance with its methods of work, in respect of eight outstanding cases. The Working Group is unable to report on the fate and whereabouts of the persons concerned.

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United States of America

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291. ... One other case, also concerns a United States citizen, and reportedly occurred in 2001 near the Israeli settlement of Ofrah on territory under the Palestine Authority; the Israeli Defence Forces (IDF) were allegedly responsible for his disappearance. (See section on the Palestine Authority, paragraphs 319-321.)

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Palestinian Authority

319. During the period under review, no new cases were transmitted by the Working Group to the Palestinian Authority.

320. Of the three reported cases of disappearance, two reportedly occurred in 1997: one concerns a person who was allegedly taken away from his sister's home in Deir-al-Balah by persons who had identified themselves as military intelligence officers; the other concerns a real estate agent, the father of five children, who allegedly disappeared after his arrest by members of the Palestinian military intelligence in Ramallah. A recent case reportedly occurred in 2001 and concerns a United States citizen of Palestinian descent who allegedly disappeared near the Israeli settlement of Ofrah: eyewitness accounts and a blue tape found on his car, abandoned near the settlement, indicated that it had been searched for explosives by Israeli Defence Forces (IDF). In accordance with the methods of work of the Working Group, a copy of the case was also sent to the Government of Israel and to the Government of the United States of America. (See also section on United States of America, paragraphs 289-291.)

321. To date, no information has been received from the Palestinian Authority with regard to the three outstanding cases. The Working Group is, therefore, unable to report on the fate and whereabouts of the persons concerned.

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IV. CONCLUSIONS AND RECOMMENDATIONS

323. Despite the fact that 5,255 cases have been clarified in the last five years, the Working Group still confronts a backlog of 41,636 outstanding cases. During 2002, the Group has received concrete assistance and strong cooperation from a number of Governments, notably Algeria, Angola, India, Lebanon, Mexico, Morocco and Sri Lanka. The Working Group remains, nonetheless, very concerned that, of the 78 countries with outstanding cases, some Governments (Burkina Faso, Burundi, Cambodia, the Congo, Equatorial Guinea, Guinea, Israel, Mozambique, Namibia, Rwanda, Seychelles, Tajikistan and Togo), as well as the Palestinian Authority, have never replied to its requests for information or reminders.

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Notes

¹Since its creation in 1980, the Working Group has submitted a report annually to the Commission on Human Rights, starting at the Commission's thirty-seventh session. The document symbols of the previous 22 reports are as follows: E/CN.4/1435 and Add.1; E/CN.4/1492 and Add.1; E/CN.4/1983/14; E/CN.4/1984/21 and Add.1 and 2; E/CN.4/1985/15 and Add.1; E/CN.4/1986/18 and Add.1; E/CN.4/1987/15 and Add.1 and Corr.1; E/CN.4/1988/19 and Add.1; E/CN.4/1989/18 and Add.1; E/CN.4/1990/13; E/CN.4/1991/20 and Add.1; E/CN.4/1992/18 and Add.1; E/CN.4/1993/25 and Add.1; E/CN.4/1994/26 and Add.1 and Corr.1 and 2; E/CN.4/1995/36; E/CN.4/1996/38; E/CN.4/1997/34; E/CN.4/1998/43; E/CN.4/1999/62 and Add.1 and 2; E/CN.4/2000/64 and Corr.1 and 2 and Add.1; E/CN.4/2001/68, and E/CN.4/2002/79 and the relevant addenda and corrigenda. The relevant resolution of the Commission adopted at its fifty-eighth session is resolution 2002/41.

²General Assembly resolution 47/133 of 18 December 1992. Hereinafter referred to as the "Declaration".