UN Special Procedure and Working Group on Enforced or Involuntary Disappearances (WGEID)

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The UN Charter-based Mechanism

- **Human Rights Council**
  - Established on March 15, 2006
    - cf. GA Res 60/251 (2006) (p.695-96)

- **Universal Periodic Review**

- **Special Procedures**

- **Complaint Procedure**

- **Advisory Committee**

- **Office of High Commissioner for Human Rights (OHCHR)**
  - Zeid Ra’ad Al Hussein
UN HRC Special Procedures

- Independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.
- A central element of the United Nations human rights machinery and covers all rights: civil, cultural, economic, political, and social.
- As of 1 January 2016, there are 55 Special Procedures (41 thematic mandates and 14 mandates relating to countries or territories) with currently 79 mandate-holders.
<table>
<thead>
<tr>
<th>Title / Mandate</th>
<th>Country</th>
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<tr>
<td>Special Rapporteur on the situation of human rights in <strong>Belarus</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>Cambodia</strong></td>
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<td>Independent Expert on the situation of human rights in <strong>Central African Republic</strong></td>
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<td>Independent Expert on the situation of human rights in <strong>Côte d’Ivoire</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>Democratic People’s Republic of Korea</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>Eritrea</strong></td>
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<td>Independent Expert on the situation of human rights in <strong>Haiti</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>the Islamic Republic of Iran</strong></td>
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<td>Independent Expert on the situation of human rights in <strong>Mali</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>Myanmar</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>Palestinian territories occupied since 1967</strong></td>
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<td>Independent Expert on the situation of human rights in <strong>Somalia</strong></td>
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<td>Independent Expert on the situation of human rights in <strong>Sudan</strong></td>
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<td>Special Rapporteur on the situation of human rights in <strong>Syrian Arab Republic</strong></td>
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Special Procedures- Thematic Mandates

- adequate housing
- African descent
- Arbitrary Detention
- sale of children
- right to education
- Enforced or Involuntary Disappearances
- Extrajudicial, summary or arbitrary executions
- extreme poverty
- right to food
- freedom of opinion and expression
- freedom of religion or belief
- right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- human rights defenders
- impunity
- independence of judges and lawyers
- indigenous people
- internally displaced persons
- use of mercenaries
- human rights of migrants
- contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- structural adjustment policies and foreign debt
- Protection of human rights and fundamental freedoms while countering terrorism
- Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- Trafficking in persons
Working Group on Enforced or Involuntary Disappearances (WGEID)

- WGEID was established by Commission on Human Rights resolution 20 (XXXVI) of 29 February 1980.

- Declaration on the Protection of all Persons from Enforced Disappearances, 1992

- Methods of Work (A/HRC/WGEID/102/2)
Definition of
Enforced Disappearances

“Enforced disappearances occur when persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of, the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.”

(Methods of work of the Working Group on Enforced or Involuntary Disappearances, A/HRC/WGEID/102/2)
Constituent Elements of Enforced Disappearances

1. **by officials** of different branches or levels of Government or by organized groups or private individuals acting on behalf of, or with the **support, direct or indirect, consent or acquiescence of, the Government**, persons are **arrested, detained or abducted against their will or otherwise deprived of their liberty**, followed by a **refusal to disclose the fate or whereabouts of the persons concerned** or a **refusal to acknowledge the deprivation of their liberty**, which places such persons outside the protection of the law.
Challenges of Non-state Actors

- Enforced disappearances by terrorists or rebel groups
- Enforced disappearances by other non-state actors
Mandate of WGEID

- assists families in determining the fate or whereabouts of their disappeared relatives who are placed outside the protection of the law;

- endeavours to establish a channel of communication between the families and the States concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases that families have, directly or indirectly, brought to the attention of the Working Group are investigated with a view to clarifying the fate or whereabouts of the disappeared persons.
Requirements for consideration of cases

- Full name of the disappeared person
- Date of disappearance
- Place of deprivation of liberty or where the disappeared person was last seen
- State agents or other parties believed to be responsible for the deprivation of liberty
- Steps taken
- Reliable source (efforts to get victims consent)

Cf. communication form
Methods of Work-
Procedure

- Urgent procedure:
  - ED occurred within three months.

- Standard procedure:
  - ED reported after three months
Methods of Work-
Handling of cases

- Clarification of cases,
- Archiving of cases,
- Discontinuation of cases,
- Reopening of cases
- [Six-month rule]
Methods of Work -
Other protection mechanisms

- Urgent appeals,
- Prompt interventions,
- General allegations,
- Other communications,
- Follow-up on communications
Methods of Work - Country Visits

- Carries out visits to countries on invitation:
  - Ex: Sri Lanka, Peru, Turkey etc.

- To enhance the dialogue between the authorities most directly concerned, the families or their representatives and the Working Group; and to assist in the clarification of the reported cases of enforced disappearance.

- To examine the practices carried out by States to prevent, investigate, punish and eradicate enforced disappearances, as well as the programmes and measures adopted to implement the Declaration and to guarantee the rights of, among others, the victims.

- To report to UN HRC, UN GA, and Cooperate with other experts

- Cf. Regular session in the region: the 111th session in Seoul, 2017
WGEID Country Visit: Sri Lanka
November 9, 2015- November 19, 2015

- Three members of the Working Group:
  - Meetings with the Government
  - Meetings with the Families, Civil Society Organizations, etc
  - Visits to Detention Facilities
  - Press briefing and issuing a preliminary observation
Transitional justice

“The principles and mechanisms which can guarantee justice during a transition from an authoritarian regime or internal conflicts to democratic rule.”
Elements of Transitional Justice

- Truth
- Retribution
- Restoration
- Reconciliation
- New Institution
Cooperation between UN SPs and CSOs, RHRMs, HRDs

- UN Special Procedure mechanisms cannot sustain without cooperation with CSOs, RHRMs, and HRDs.

- Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards. In some cases, communications are also sent to inter-governmental organizations or non-State actors.

- "Online submission to special procedures"
Cooperation between WGEID and CSOs, RHRMs, HRDs

- WGEID awaits broader cooperation with CSOs, RHRMs, HRDs:
  - Report of ED cases
  - Urgent procedure
  - Standard procedure
  - Urgent appeal
  - General Allegation
  - Other communication
  - Country visit
  - Report to the UN HRC, Follow-up report
Cooperation between WGEID and CSOs, RHRMs, HRDs

- Information sharing through various means
  - Develop modes of cooperation
  - Participate in meetings during the regular sessions
  - Side-events

- Country visits
  - Preparation
  - Actual visits
  - Reporting & Follow-ups

- Consultation sessions

- Regional sessions- another opportunity

- Joint press release
  - PR with CED, other UN mandate-holders, Inter-American Commission on Human Rights and other regional bodies, etc.
Cooperation between UNHRC SP and Regional Organizations in Asia

- New regional human rights systems in ASEAN
  - ASEAN Intergovernmental Commission on Human Rights;
  - ASEAN Commission on the Rights of Women and Children;
  - ASEAN Committee on Migrant Workers

- ASEAN, SAARC, PIF, EAS

- Active cooperation to address human rights violation including ED
- Cooperation to facilitate active regional organizations with human rights values

- Building strong human rights norms (convention) and HR mechanisms in Asia
Thank you!

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