

Committee: General Assembly

Issue: Setting a Framework to Eradicate Enforced Disappearances

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I. Introduction

“We are seriously concerned that the number of enforced disappearances is increasingly rising with the false and pernicious belief that they are a useful tool to preserve national security and combat terrorism,”¹

More than 4,432,880 persons have been reported to be missing in the past 25 years.² The rate of enforced disappearances has been increasing every year for various reasons, and elaborations are being made that relate to ‘preserving national security’. Enforced disappearances is a term used to describe “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law,”³ according to the International Convention for the Protection of All Persons from Enforced Disappearance. Some governments view it as a main way to ensure that no one is opposing or questioning their power, which is very common among countries with civil unrest and in post-conflict zones.⁴ Moreover, terrorists groups find it a method to increase the number of their members and/or secure themselves from anyone they perceive as a threat. Because conflict zones usually suffer from corrupt governments, the rate of enforced disappearance keeps in increasing and currently records are being broken to the extent that a minimum of one person is being reported to have disappeared per day.⁵ On the other hand, countries, such as the Philippines, have directed certain laws to target and eradicate enforced disappearances, being the first Asian country to establish such laws. This issue is found to be of utmost importance since it violates various human rights not only of the disappeared person but of his/her family as well.

II. Involved Countries and Organizations

[Republic of Mexico]

Mexico is said to be amongst the countries with the highest number of enforced disappearances in the world. Between 2006 and 2012 alone, 26,000 reports were made about missing/ disappeared people⁶. During that time the Human Rights Watch found undeniable evidence that these were enforced disappearances and were also able to prove the involvement of the state. As stated in a report written by the HRW “Human Rights Watch found evidence that members of all branches of the security forces

¹“Enforced Disappearances.” *United Nations Human Rights Office of the High Commissioner*, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21506&LangID=E .

² Monday, 26 August 2013, 11:20 am Press Release: International Rewards Centre. “4,432,880 Missing Persons Vanished In Past 20 Years.” *Scoop - Independent News*, www.scoop.co.nz/stories/WO1308/S00441/4432880-missing-persons-vanished-in-past-20-years.htm .

³“Enforced Disappearances.” *Enforced Disappearances - FIACAT*, www.fiacat.org/-enforced-disappearances- .

⁴ “Human Rights, Justice, Rule of Law, Enforced Disappearance, Arbitrary Detention, Abduction, Torture, Terror.” *United Nations*, United Nations, www.un.org/en/events/disappearancesday/background.shtml .

⁵ Ibid.

⁶ “Amnesty International.” *Disappearances*, www.amnesty.org/en/what-we-do/disappearances/ .

carried out enforced disappearances: the Army, the Navy, and the federal and local police”⁷. Officials of the law enforcement often fail to search meticulously for the disappeared victims and fail to investigate the cases thoroughly. The HRW investigated 249 cases of enforced disappearances in Mexico and there wasn’t a single case out of them where someone responsible was convicted for the crime⁸. In many cases, the families of the victims are told to investigate on their own. This is because before 2015, the government had general laws that protected the basic human rights of all citizens, then in 2015 Congress wrote general laws about enforced disappearances and the prosecution of the convicted in all of Mexico’s states, however the laws were never enacted so the situation remained unchanged.

The former president of Mexico Felipe Calderón who served from December 2006 to November 2012 failed to address this problem and as the HRW found through their studies, he denied that his security forces had committed any human rights violations for most of his presidency.⁹ In his last year of presidency, however, he recognized the problem and aimed at achieving goals such as “Completing a national registry of the disappeared, submitting a new legislative proposal to Congress to reform the Code of Military Justice that complied with four rulings on the issue by the Inter-American Court of Human Rights”¹⁰. These four rulings were:

- 1) Create a national database for all of the disappeared
- 2) Make sure that any military personnel that commit human rights violations, including enforced disappearances, are prosecuted.
- 3) Make sure that the definition of enforced disappearance is the same throughout Mexico, and that it abides by international human rights laws
- 4) “Issue an executive order mandating the immediate presentation of all detainees before the public prosecutor’s office and making clear that under no circumstances may detainees be taken to military installations, police stations, or illegal detention facilities.”¹¹ He, however did not accomplish any of these goals. Nevertheless, there are efforts being made in Mexico aimed at solving this pressing matter. For example, in a city called Nuevo León, prosecutors are beginning to feel the

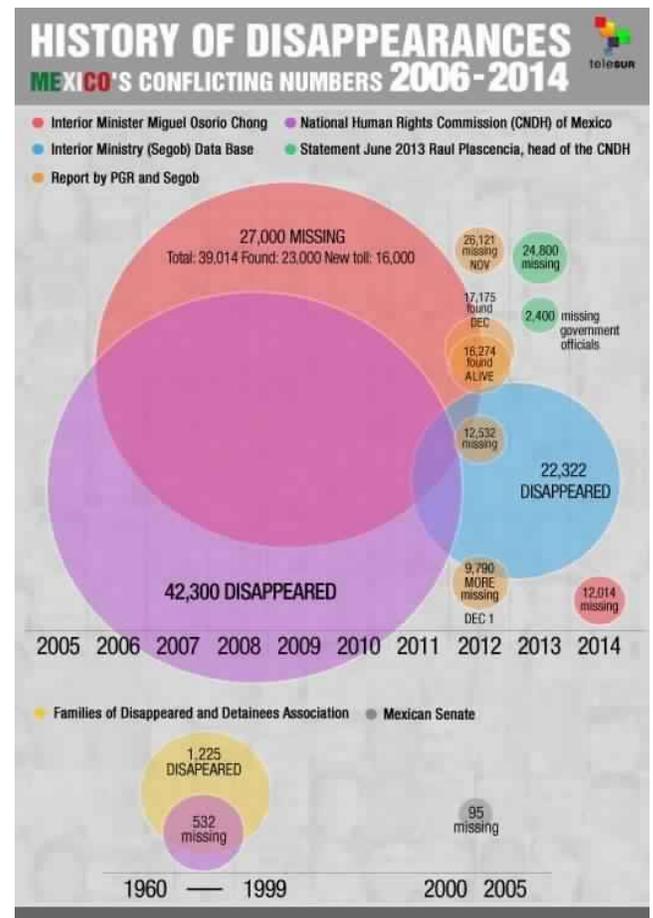


Fig 1: Timeline of Mexico’s enforced disappearances 16

⁷ “Mexico: Crisis of Enforced Disappearances.” *Human Rights Watch*, 17 Apr. 2015, www.hrw.org/news/2013/02/20/mexico-crisis-enforced-disappearances .

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

pressure from the families of the victims and have begun to seriously investigate many cases of enforced disappearances¹². Unfortunately, they haven't made much progress and only very few of the victims were actually found. José Miguel Vivanco, who is America's director at the HRW said, "Even with the world watching and with substantial resources at hand, the authorities proved unable or unwilling to conduct a serious investigation."¹³ Another effort that was made in Mexico was in 2013, when a unit was created in the Attorney General's office aimed at investigating enforced disappearances. However, only 4 charges were made out of the 830 cases that were investigated¹⁴. Mexico undoubtedly has some of the highest numbers of enforced disappearances in the world and yet, the proper measures to solve this issue have not yet been made.

There are several reasons as to why all of the attempts made to solve this issue in Mexico have been failed attempts. Most importantly, the government and the state are corrupt, drugs and crime are widespread in Mexico and so this issue is not of essential interest to the government, therefore the efforts needed are not being made. Also, the criminal justice system is incompetent, many of the prosecutors are actually involved in cases with criminals which makes them inadequate to judge them. In addition to that, any journalist who attempts to release information about these disappearances to other countries, is harassed or attacked, so the rest of the world is not aware of the severity and extremity of the problem. From 2000 to 2016, the killing of 124 journalists have been recorded, although there is a 2012 law that protects the rights of journalists, no charges have been made to any convicted under this law, because when authorities wrote it, they did not decide on charges.^{15 16}

[The Philippines]

The Philippines was the first country in Asia to issue a law criminalizing enforced or "forced" disappearances¹⁷. In December of 2012, a national law that is legally binding was issued by the government of the Philippines that stated, as summarized by the United Nations Human Rights Office of the High Commissioner, "It forbids State agents from abducting people suspected of anti-Government activity, and provides for a maximum penalty of life imprisonment without amnesty for the practice of enforced disappearances which is also considered a continuing crime"¹⁸ The law not only states that people have rights against enforced disappearances, it also states that under any circumstances such as war, or any other emergencies this right may not be devalued in any way. The law also contains details about the recovery and return of the past victims and also compensation for the family members of these victims. Since 1997, around 2,000 people were reported missing in the Philippines, most of them disappeared during the presidency of former president Ferdinand Marcos, but since the issuing of this law in 2012, not a single case of an enforced disappearance was registered.¹⁹ The reason this law has been so

¹² Ibid.

¹³ Ibid.

¹⁴ "Mexico." *Human Rights Watch*, 13 Jan. 2017, www.hrw.org/world-report/2017/country-chapters/mexico .

¹⁵ Ibid.

¹⁶ Mychalejko, teleSUR / Cyril. "Disappearances, a Persistent Problem in Mexico." *TeleSUR*, www.telesurtv.net/english/analysis/Disappearances-a-Persistent-Problem-in-Mexico-20141031-0018.html.

¹⁷ "Philippines Passes Landmark Law Criminalizing Enforced Disappearances." *OHCHR | Philippines Passes Landmark Law Criminalizing Enforced Disappearances*, 24 Jan. 2013, www.ohchr.org/EN/NewsEvents/Pages/Philippinespassescriminalizingenforceddisappearances.aspx .

¹⁸ Ibid.

¹⁹ Reporter, A. "Philippines Is Only Country in Asia with Law on Enforced Disappearances." *DAWN.COM*, 4 Feb. 2015, www.dawn.com/news/1161368 .

successful is because it reflects years worth of suggestions from Human Rights NGO's about solving this issue, so it is focussing on the wide scope of the issue and the law tackles the issue in all its aspects²⁰.

Punishments in the Philippines for committing this crime include facing a life time in prison, and the law can't be suspended no matter what the circumstances are. The law also clearly states that if any members of the army, navy, or government officials receive orders to commit this illegal crime, they must disobey these orders. Amongst the achievements of this law was the trial and conviction of retired Army General Jovito Palparan for the disappearance of two activists²¹. The Philippines is considered to be Asia's leader in terms of the most progress made regarding this issue, in accordance to their accomplishments, the Philippines are urged and encouraged to sign and ratify several treaties including the International Convention for the Protection of All Persons from Enforced Disappearance which they have not yet signed, and the reason as to why they have not yet signed it has not been revealed, nor are there any speculations about it, it is simply believed that this will be their next step in eradicating this issue, however they have not yet taken it.²²

[Sri Lanka (Ceylon)]

Just like Mexico, Sri Lanka is also one of the countries with the highest number of enforced disappearances in the world. According to Amnesty International "In Sri Lanka, 12,000 complaints of enforced disappearances have been submitted to the UN since the 1980s. The actual number is at least 30,000 higher"²³. Sri Lanka faced 26 years of armed conflicts which resulted in many tragedies including innumerable amounts of enforced disappearances all over the country. The many years of armed conflict in Sri Lanka caused there to be individuals who opposed the government and its ways, and since the government was already becoming of weak authority, they resolved the issue by simply abducting these people and either questioning and torturing them, or killing them. Salil Shetty, the Secretary General of Amnesty International that was investigating Sri Lanka's case stated that "There is no community in Sri Lanka that remains untouched by the trauma of enforced disappearance. Most people in the country suffer the absence of a loved one or know someone who does. They have waited years, and in some cases, decades, to learn of the fate of their relatives."²⁴ In June of 2016, former president Chandrika Bandaranaike Kumaratunga whose presidency lasted from 1994 to 2005 admitted that during his presidency he had received no less than 65,000 complaints about disappearances which he did not address, simply because he didn't want to acknowledge that this was a problem²⁵.

Since the problem had become of great importance and criticality, the Sri Lankan government had to take action. In October 2015, The Sri Lankan government said that they would develop ways to reform and to ensure that all the human rights violations in the past would not be repeated again, the government calls the process "reconciliation". However, this process failed to be put into action and bring results because the government was just not interested in the wellbeing of the citizens and in truly

²⁰ "Philippines: Milestone Law Criminalizes Forced Disappearances." *Human Rights Watch*, 17 Apr. 2015, www.hrw.org/news/2012/12/21/philippines-milestone-law-criminalizes-forced-disappearances .

²¹ News, ABS-CBN, and Ron Galalac ABS-CBN News. "Torture, Enforced Disappearances Still Plaguing PH: Amnesty." *ABS-CBN News*, ABS-CBN News, 23 Feb. 2016, www.news.abs-cbn.com/focus/02/24/16/torture-enforced-disappearances-still-plaguing-ph-amnesty .

²² Countries such as India, Bangladesh, Argentina, and Chile have similar stances to the Philippines

²³ "Amnesty International." *Disappearances*, www.amnesty.org/en/what-we-do/disappearances/ .

²⁴ "Amnesty International." *Sri Lanka - Victims of Disappearance Cannot Wait Any Longer for Justice*, 3 Apr. 2017, www.amnesty.org/en/latest/news/2017/04/sri-lanka-victims-of-disappearance-cannot-wait-any-longer-for-justice/ .

²⁵ Ibid.

reforming.²⁶ An example of that failure was in 2016, when the government created an “Office of missing persons”, this office seemed like a step in the right direction, however its failure to consult with the citizens and listen to the citizens caused it to be another failed attempt at reform²⁷. In 2016, the parliament of Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance²⁸ however, making enforced disappearances a crime in Sri Lanka is an issue that is still to be debated.

[Amnesty International and the Human Rights Watch (HRW)]

Amnesty International is a non-governmental organization that focuses on human rights and their protection. It was founded in 1961²⁹ by a British lawyer called Peter Benenson who witnessed the arrest of two Portuguese students that simply raised a toast to freedom. The founder’s motto for the company is “Only when the last prisoner of conscience has been freed, when the last torture chamber has been closed, when the United Nations Universal Declaration of Human Rights is a reality for the world’s people, will our work be done.”³⁰ The organization is said to have around 7 million supporters and members from all over the world. Their work started out releasing political prisoners but it later expanded to the protection of all human rights. Amnesty International does hundreds of campaigns on disappeared people all over the world and campaigns that pressure governments to stop using the method of enforced disappearances by constantly suggesting new laws and changes to the constitution. Salil Shetty, the Secretary General of Amnesty International describes the organization’s progress in this statement: “In the last decade, we have had some success. In 2010 we cheered the arrival of an international Disappearances Convention, and every year hundreds of thousands of Amnesty supporters send personal letters to families, or appeals to governments.”³¹ Amnesty International also provide reports on certain countries where this problem is profound, stating problems these countries face, progress that is made by these countries, and the measures these countries should be taking in order to solve this issue, not all countries take these measures into account however some, such as the Philippines, take them into account and use them as guidance when creating new laws. .

The Human Rights Watch is an international non-governmental organization that is American-founded. The organization was founded in 1978 and conducts investigations on human rights and provides reports, while also advocating for human rights. The organization is made up of about 400 members that work around the globe. Every year the HRW publishes over 100 research papers concerning human rights issues in over 90 countries³². One of the main goals of the organization is eradicating the issue of enforced disappearances worldwide. Its work is very similar to that of Amnesty International, its main contribution to solving the issue is the reports that they write monitoring certain human rights violations in countries all over the world. For enforced disappearances alone, they have issued over 100 reports in different countries.³³ The reports provide background about the issue in that specific country,

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ “Who We Are.” *Amnesty International Home*, www.amnesty.org/en/who-we-are/ .

³⁰ Ibid.

³¹ “Amnesty International.” *The Day of the Disappeared: Enforced Disappearances Persist Globally*, www.amnesty.org/en/press-releases/2016/08/the-day-of-the-disappeared-enforced-disappearances-persist-globally/ .

³² “Who We Are.” *Human Rights Watch*, 24 May 2016, www.hrw.org/who-we-are .

³³ “International Day of the Victims of Enforced Disappearances.” *Human Rights Watch*, 30 Aug. 2017, www.hrw.org/news/2017/08/30/international-day-victims-enforced-disappearances .

then provide reports about any progress or setbacks that have recently been happening concerning these issues. The mission state of the organization describes their goals and aspirations:

“Human Rights Watch defends the rights of people worldwide. We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice. Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.”

Together, the Human Rights Watch and Amnesty International, along with a couple other organizations encouraged the members of the Human Rights Council to adopt a convention called the International Convention for the Protection of All Persons from Enforced Disappearance. The convention was then adopted by the General Assembly on the 20th of December, 2006 and was signed by over 96 parties.³⁴

III. Focused Overview of the Issue

Enforced disappearance was first recognized in the 1960s and 1970s during the Latin American war and at the peak of the Cold War when human rights lawyers in Chile started reporting that some prisoners have disappeared and no one knew where they went, but they were still under the Chilean custody according to these lawyers’ submitted reports. Almost 130 persons have been reported missing; however, the court couldn’t do anything about it, since it was not something common to the extent that both national and international law did not address the subject.³⁵ Later on, enforced disappearance became a crime under international law in which governments are to be held accountable and obliged to hold perpetrators through prosecution and criminal investigations. Moreover, it was considered a crime against humanity when it is a part of a strategic plan on attacking civilians, in accordance to The Rome Statute of the International Criminal Court.³⁶ The statute prohibits the act of enforced disappearance and obliges the states to define what it means to be a forcibly disappeared person in their national law.



Victims’ families weeping for their loss.
“Lebanon: ICTJ Study Shows Viability of a National Commission to Uncover Fate of the Missing and Disappeared.” *International Center for Transitional Justice*, 27 Jan. 2016, www.ictj.org/news/lebanon-study-shows-viability-national-commission-uncover-fate-missing-and-disappeared.

Nevertheless, various UN treaty bodies and UN working groups that target eradicating this issue were established and put into action, such as the Working Group on Disappearances and the Committee on Enforced Disappearances, which is a UN human rights treaty body. They work in aims to improve every state’s situation and help them improve their progress in relation to the issue. They may request

³⁴ “UN, United Nations, UN Treaties, Treaties.” *United Nations*, United Nations, www.treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-16&chapter=4&lang=en.

³⁵ Human Rights: From Practice to Policy. 2011, Human Rights: From Practice to Policy, <http://humanrightshistory.umich.edu/files/2012/07/Zalquette.pdf>.

³⁶ Also referred to as the International Criminal Court Statute, which is the treaty that established the International Criminal Court, and was signed by 124 countries.

urgent actions from the country's officials on behalf of the victims' families, etc... Several other treaties and conventions have been made to tackle the issue (see section V), along with various other NGOs and working groups that work in alliance with UN bodies and governments.³⁷

1) Rights Forcibly Disappeared People and their Families are Deprived from

The enforced disappearance of a person infringes upon various human rights that not only affects the victim but consequently their families as well. This starts with these people losing their right to liberty and living a secure life by being subjected to unlawful torture and punishments. The unlawful torture they suffer from ensures that neither them nor their families will practice the right of having a fair trial. Meaning that if these people forcibly disappeared for committing a crime they lose their right of having a trial in the court, hence even if they are innocent they will not be able to prove that and will still bear the consequences. Most importantly these people lose their right to maintaining their identity and their "recognition as people before the law." Not only do they suffer from such deprivation, but their families also dispossess rights of their own such that the protection and assistance the forcibly disappeared person used to offer them, especially that usually more men than women disappear, in families where men are the breadwinners. In such cases the families' standard of living usually drops drastically, and children may lose their right to education. On the other hand, when women disappear, they get subjected to more sexual violence and harassment as an additional form of oppression. Nevertheless, all victims are deprived from humane conditions of detention, even though most of them are not guilty of unlawful crimes, but those in authority find that they will benefit in a way when they torture them.³⁸

2) Who Forcibly Disappears and Why

People who forcibly disappear are mainly those who, from the point of view of the government, pose a threat to the security and stability of the country. Hence, journalists who oppose the current regime, human rights defenders, revolutionary people, political activists, lawyers, witnesses, vulnerable people such as elderly and children disappear more than any other party in a nation. In cases relating to people who oppose the regime, governments do not find an easier and faster way to stop the opposition; thus, they enter those people's houses, take them and exile them to unknown places.

"Some men arrive. They force their way into a family's home, rich or poor, house, hovel or hut, in a city or in a village, anywhere. They come at any time of the day or night, usually in plain clothes,



"Egypt: Hundreds disappeared and tortured amid wave of brutal repression"

"Amnesty International." *Egypt: Hundreds Disappeared and Tortured amid Wave of Brutal Repression*, www.amnesty.org/en/latest/news/2016/07/egypt-hundreds-disappeared-and-tortured-amid-wave-of-brutal-repression/.

³⁷"ENFORCED DISAPPEARANCES: Q & A ." *Amnesty International*, <https://www.amnesty.org/download/Documents/32000/ior510102011en.pdf> .

³⁸*Enforced or Involuntary Disappearances. Enforced or Involuntary Disappearances*, www.ohchr.org/Documents/Publications/FactSheet6Rev3.pdf .

sometimes in uniform, always carrying weapons. Giving no reasons, producing no arrest warrant, frequently without saying who they are or on whose authority they are acting, they drag off one or more members of the family towards a car, using violence in the process if necessary,”
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According to the UN, this is how authorities enforce a disappearance on the victims. Moreover, another reason why authorities do that is that it is used as a strategy to maintain order and spread fear not only within a family, but within a whole community. Enforced disappearance lately became a key instrument of state policy in over 37 countries. Such countries like Egypt, Mexico, Sri Lanka, India, Balochistan, Syria put those who dare to speak against the ruling party at risk, and have adopted counter-terrorism as a strategy to face anyone who challenges them. Nevertheless, it is a main policy to terrify protesters. On the other hand, when lawyers, witnesses, or vulnerable people, forcibly disappear the reason behind it is mainly an authority figure in the society is in danger, hence they use ‘enforced disappearance’ as a method to ensure their safety and to pressure the victims and their families to stop their opposition to the current regime or to that figure in danger. These actions are only taken in countries which are against freedom of speech and adopt various policies to prevent people from expressing their opposition, in order to ensure they remain in power. Furthermore, armed extremists and terrorist groups have developed it as a strategy as well to face anyone who challenges them and make sure that these people are not endangering the group’s safety. They also use it as a way to pressure the victims to enroll in their group and take part of the terrorism actions they perform.

3) Government's Role in the Subject

Governments play a vital role in the issue of involuntary disappearances. As aforementioned, they have the power to either stop it from occurring or at least to decrease the number of cases reported per year, or to be a main reason why the statistics are increasing year after year. Countries such as Philippines, as mentioned, have managed to find a way to eradicate the phenomenon as time passed by issuing a law that directly tackles the issue and by enforcing it. On the other hand, despite having 90 states signing the International Convention for the Protection of All Persons from Enforced Disappearance and 30 ratifying it, most of these states do not follow its articles and guidelines. With the increase of the number of the reported cases in the past decade, it is deduced that these governments are halting the resolvment of the issue. Moreover, in countries such as Mexico, the government is not aiding any of the organizations working on the issue or the UN’s Working Group , since they do not provide them with any details about the victims, since they forcibly disappeared due to the government’s policies, hence it is unfavorable to be found from the government officials’ point of view . In addition, as a member of the HRW mentions, “Prosecutors and police routinely fail to carry out basic investigative steps to identify those responsible, often telling the missing people’s families to investigate on their own.”⁴⁰ Many other governments adopt a similar stance, such as the Egyptian and Pakistani governments, which makes the issue harder to resolve, since one of the most crucial ways to eradicate this phenomenon is for governments to stop adopting it as a strategy to secure themselves and to issue laws that tackle it within their countries.

³⁹“Human Rights, Justice, Rule of Law, Enforced Disappearance, Arbitrary Detention, Abduction, Torture, Terror.” *United Nations*, United Nations, www.un.org/en/events/disappearancesday/background.shtml l.

⁴⁰“Mexico.” *Human Rights Watch*, 27 Jan. 2016, www.hrw.org/world-report/2016/country-chapters/mexico.

IV. Key Vocabulary

Enforced Disappearance: the term used to describe “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law,”⁴¹

Involuntary Disappearance: Synonym for enforced disappearance.

Equality before the law: “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”⁴²

V. Important Events & Chronology

Date (Day/Month/Year)	Event
1960s and 1970s	Enforced disappearances were first recognized
December 2012 ⁴³	The Philippines passed a law criminalizing the act of enforced disappearances.
30th of August (every year) ⁴⁴	International Day of the Victims of Enforced Disappearances, organizations such as amnesty international and the UN use this day to raise more awareness about the issue, and activists go out into the streets and peaceful protest, many of them holding pictures of disappeared family members/ friends. It is one of the most important means of spreading awareness about this issue.
December 20, 2006 ⁴⁵	The International Convention for the Protection of All Persons from Enforced Disappearance was adopted by the General Assembly.

VI. Past Resolutions and Treaties

⁴¹“Enforced Disappearances.” *Enforced Disappearances - FIACAT*, www.fiacat.org/-enforced-disappearances-.

⁴² “Claiming Human Rights.” *Equality before the Law - Definition*, www.claiminghumanrights.org/equality_before_law_definition.html.

⁴³ “Philippines Passes Landmark Law Criminalizing Enforced Disappearances.” *OHCHR | Philippines Passes Landmark Law Criminalizing Enforced Disappearances*, 24 Jan. 2013, www.ohchr.org/EN/NewsEvents/Pages/Philippinespassescriminalizingenforceddisappearances.aspx.

⁴⁴ “Human Rights, Justice, Rule of Law, Enforced Disappearance, Arbitrary Detention, Abduction, Torture, Terror.” *United Nations*, United Nations, www.un.org/en/events/disappearancesday/background.shtml.

⁴⁵ “UN, United Nations, UN Treaties, Treaties.” *United Nations*, United Nations, www.treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-16&chapter=4&lang=en.

- 1) Resolution 47/133 titled “Declaration on the Protection of All Persons from Enforced Disappearances by the general assembly” was adopted by the General Assembly on the 18th of December 1992⁴⁶ The resolution outlined the seriousness of the matter in its preamps and in its operative clauses covered all aspects of enforced disappearances such as the illegality of the act, the punishments that would face governments should they commit this crime, the right of “effective judicial remedy” for the victims if this crime is committed, and several other aspects. Among these aspects mentioned are the measures each state should take in solving the issue, Article three of the resolution states: “ Each state shall take effective legislative, administrative, judicial, or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction”⁴⁷.

Another aspect mentioned in the operative clauses is the justification of an enforced disappearance and how if someone is given an order to perform or justify an enforced disappearance, they should disobey it. The Article (Article 6) states: “No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it”⁴⁸. The resolution itself was not well implemented, since it wasn’t a very detailed resolution and did not have enough countries agree to it, however it is considered to be successful in the sense that it has served as a framework for future, more elaborate solutions to the issue and also served as a framework for several treaties such as The International Convention for the Protection of All Persons from Enforced Disappearance.

Link to the full resolution:

United Nations High Commissioner for Refugees. “Declaration on the Protection of All Persons from Enforced Disappearances.” *Refworld*, www.refworld.org/docid/3dd911e64.html .

- 2) The International Convention for the Protection of All Persons from Enforced Disappearance is a treaty that was adopted by the General Assembly on December 20, 2006⁴⁹. The convention is aimed at tackling all aspects of enforced disappearances; the first article of the convention states that no person should be subjected to an enforced disappearance, no matter the circumstance and that this applied even during times of war and conflict. The convention was eventually put into force on December 23rd, 2010⁵⁰. This convention was signed by over 96 parties and ratified by

⁴⁶ United Nations High Commissioner for Refugees. “Declaration on the Protection of All Persons from Enforced Disappearances.” *Refworld*, www.refworld.org/docid/3dd911e64.html .

⁴⁷ United Nations High Commissioner for Refugees. “Declaration on the Protection of All Persons from Enforced Disappearances.” *Refworld*, www.refworld.org/docid/3dd911e64.html .

⁴⁸ United Nations High Commissioner for Refugees. “Declaration on the Protection of All Persons from Enforced Disappearances.” *Refworld*, www.refworld.org/docid/3dd911e64.html .

⁴⁹ “International Convention for the Protection of All Persons from Enforced Disappearance.” *International Convention against Enforced Disappearance*, 21 May 2014, www.humanrights.ch/en/standards/un-treaties/disappearance/ .

⁵⁰ “International Convention for the Protection of All Persons from Enforced Disappearance.” *International Convention against Enforced Disappearance*, 21 May 2014, www.humanrights.ch/en/standards/un-treaties/disappearance/ .

over 43 parties⁵¹. The contract is binding⁵² and obligates all states that sign to create laws criminalizing the act of enforced disappearances. There was also a monitoring group created to monitor the acts of all states that sign this treaty and among the conditions were that if the monitoring group found cases with enough evidence that one of the governments was committing acts of enforced disappearances, they may bring the case forth in front of the UN General Assembly. This convention is considered to be the most successful treaty ever made regarding this issue, because of how immense the treaty is; however in order for it to actually achieve results, the countries who ratified it must put into action and actually implement all aspects of it.

Link to the Convention:

Committee on Enforced Disappearances.” *OHCHR | Convention CED*,
www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx .

VII. Failed Solution Attempts

Among the failed solution attempts at solving this issue that occurred in many countries was the solution to simply put pressure on prosecutors to investigate the cases of disappeared persons thoroughly. In countries such as Bangladesh, India, and Mexico, this solution failed because not only were the prosecutors unable to investigate all cases, but when they did investigate, their responses were too late and any traces of the victims were already lost.

Several attempts at investigating cases of enforced disappearances fail because of the strength of the government. After governments commit these crimes, they eradicate all evidence of it so that it becomes almost impossible for anyone to investigate⁵³. For example in September 2015, an international expert group was placed in Mexico by the Inter-American Commission of Human Rights (IACHR) to investigate the case of 43 missing students. The group found it almost impossible to find any sign of the 43 individuals and were only able to find the remains of 1 out of the 43 students⁵⁴. The reason for this is that the government of Mexico had disposed of all evidence regarding the whereabouts of the remaining 42 students, whose fate was never discovered. This stresses on the importance of the role of governments and how their interference can really make much more progress than has already been made in solving this issue.

VIII. Possible Solutions

For delegates whose countries have already been making immense efforts and results at solving this issue, solutions such as getting other countries who aren't as proactive involved in the issue would be efficient solutions.

⁵¹ “International Convention for the Protection of All Persons from Enforced Disappearance.” *International Convention against Enforced Disappearance*, 21 May 2014,
www.humanrights.ch/en/standards/un-treaties/disappearance/ .

⁵² *OHCHR | The Working Group and the International Convention for the Protection of All Persons from Enforced Disappearances*, www.ohchr.org/EN/Issues/Disappearances/Pages/WGInternationalConvention.aspx .

⁵³ “Mexico: Crisis of Enforced Disappearances.” *Human Rights Watch*, 17 Apr. 2015,
www.hrw.org/news/2013/02/20/mexico-crisis-enforced-disappearance s.

⁵⁴ “Mexico: Damning Report on Disappearances.” *Human Rights Watch*, 6 Sept. 2015,
www.hrw.org/news/2015/09/06/mexico-damning-report-disappearances .

Possible solutions to this problem for delegates whose countries aren't as active could include a monitoring group created by the UN that would monitor the acts of all governments to make sure that no acts of enforced disappearances are being committed in countries where there are laws prohibiting it. In order to increase the number of countries that do have laws against this, a solution could include an agreement where governments benefit in some sort of way from creating these laws. For example, the governments that do create laws, could be given some sort of award or honorable mention by the United Nations, which would improve the reputation of that country, its government and its officials .

Other solutions could include civil society centers where families of the disappeared can file their case to an employee and their case can be thoroughly investigated by a team dedicated to this. Another possible solution is that the UN creates an organization with members from each country to investigate these cases of enforced disappearances and provide yearly reports of any progress made, rather than the investigations being in the hands of the prosecutors who are unable to investigate thoroughly; the prosecutors can then decide the convictions. These members would be coming from foreign countries, so they would in no way be involved with any criminals as opposed to national prosecutors who are often involved with the criminals, this would improve the quality of the investigation, since the members would be foreign, they investigation would be more objective as well.

IX. Useful Links

- Questions and answers on the subject, answered by Amnesty International.

“ENFORCED DISAPPEARANCES: Q & A .” *Amnesty International*,

<https://www.amnesty.org/download/Documents/32000/ior510102011en.pdf>.

- Office of the United Nations High Commissioner for Human Rights Report on Enforced Disappearances. The introduction, sections I,II,III and IV A may be beneficial to help you know more about the topic and the progress that is taking place.

Enforced or Involuntary Disappearances. Enforced or Involuntary Disappearances,

www.ohchr.org/Documents/Publications/FactSheet6Rev3.pdf.

- Human Rights Watch World Report 2016. Delegates can search for their country's report to help them know their position on the issue. (This is a sample report on Central African Republic) Go to the COUNTRIES section and choose your country.

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