



International Convention for the Protection of All Persons from Enforced Disappearance

Distr.: General
8 June 2012

Original: English

Committee on Enforced Disappearances

Guidelines on the form and content of reports under article 29 to be submitted by States parties to the Convention, adopted by the Committee at its second session (26–30 March 2012)*

I. General information

A. Introduction

1. In accordance with article 29 of the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention), each State party has undertaken to submit to the Committee on Enforced Disappearances (the Committee), through the Secretary-General, a report on the measures taken to give effect to its obligations under the Convention within two years after the entry into force of this Convention for the State concerned. Article 29, paragraph 4, also provides that the Committee may request States parties to provide additional information on the implementation of the Convention.

2. The purpose of the reporting guidelines is to advise States parties on the form and content of their reports, so as to ensure that reports are comprehensive and presented in a uniform manner. Compliance with the reporting guidelines will also reduce the need for the Committee to request further information under article 29 and under rule 48 of its rules of procedure.

3. States should consider the reporting process, including the process of preparation of their reports, not only as a mean to ensure compliance with their international obligations, but also as an opportunity to fully comprehend the state of human rights protection within their jurisdiction for the purpose of more efficient policy planning and implementation of the Convention.

4. The Committee considers that the drafting of reports would benefit from broad-based consultations. For this reason, States parties should encourage and facilitate the involvement of families of victims' organizations, human rights defenders working on the issue of enforced disappearance and non-governmental organizations, in the preparation of

* Taking into account the guidelines on a common core document and treaty-specific documents, as contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).

reports. Such constructive engagement will enhance the quality of reports as well as promote the enjoyment by all of the rights protected by the Convention.

5. The present document takes into consideration the guidelines on a common core document and treaty specific documents, as contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I, para. 19).

B. The revised reporting system and organization of information to be included in the common core document

6. State reports under the treaty body reporting system consist of two parts: a common core document and treaty-specific document. The common core document should include general information about the reporting State and its general framework for the protection and promotion of human rights

7. Information included in the common core document should not be repeated in the treaty-specific document but just cross-referenced, when necessary.

8. In accordance with paragraph 27 of the harmonized guidelines, the Committee may request that the common core document be updated if it considers that the information it contains is out of date.

II. Information to be included in the treaty-specific document

9. The treaty-specific document should contain specific information relating to the implementation of articles 1–25 of the Convention. The report should reflect in all its parts the actual situation with regard to the practical implementation of the Convention and progress achieved and obstacles encountered:

- A section of the treaty-specific report should be devoted to the process of preparation, in particular to any consultation within the Government, with national institutions for the protection and promotion of human rights, families of victims' organizations, human rights defenders working on the issue of enforced disappearance, non-governmental organizations and other stakeholders, which might have taken place.
- If a report is submitted following a specific request by the Committee for additional information on the implementation of the Convention, as provided for in article 29, paragraph 4, the report should also contain a response to the concerns expressed by the Committee in its concluding observations and decisions, as well as information on implementation of its recommendations therein and on the machinery developed at the national level to ensure follow-up, taking into consideration the guidelines for follow-up on concluding observations and recommendations. The guidelines set out in section B provide further details.

10. The Committee recognizes that situations relating to enforced disappearance may greatly vary in different countries and States may not have the possibility to provide information on each article.

A. General legal framework under which enforced disappearances are prohibited

11. In this section, the Committee envisages receiving specific information related to the implementation of the Convention to the extent that it is not covered by the core document; in particular on the following issues:

- Brief reference to constitutional, criminal and administrative provisions regarding the prohibition of enforced disappearance
- International treaties dealing with enforced disappearance to which the reporting State is a party
- Status of the Convention in the domestic legal order, i.e. with respect to the Constitution and the ordinary legislation
- How the domestic laws ensure the non-derogability of the prohibition of enforced disappearance
- How the provisions of the Convention can be invoked before and are directly enforced by the courts or administrative authorities
- How the provisions of the Convention apply to all parts of federal States
- Judicial, administrative or other competent authorities with jurisdiction/mandate over matters dealt with in the Convention, such as the Constitutional Court, Supreme Court, the ordinary and military courts, the public prosecutors, disciplinary bodies, administrative authorities in charge of police and prison administration, national institutions for the protection and promotion of human rights, etc.
- Examples of concrete case law where the provisions of the Convention has been enforced and case law where, on the contrary, violations of the Convention were identified, the reasons for such violations and the measures taken to remedy the situation
- Examples of concrete administrative measures giving effect to the provisions of the Convention and administrative measures which, on the contrary, violated the Convention, the reasons for such violations and the measures taken to remedy the situation
- Statistical data on cases of enforced disappearances disaggregated by, inter alia, sex, age, ethnic origin and geographical location.

B. Information in relation to each substantive article of the Convention

Article 1

12. This article states the non-derogability of the prohibition of enforced disappearance. The report should contain information on effective measures to ensure that no exceptional circumstances are invoked:

- Whether legal and administrative measures exist to guarantee that no derogation to the right not to be subjected to enforced disappearance is made during a state of war, a threat of war, internal political instability or any other public emergency
- Whether legislation and practices concerning terrorism, emergency situations, national security or other grounds that the State may have adopted have had any impact on the effective implementation of this prohibition.

Article 2

13. This article contains the definition of enforced disappearance for the purposes of the Convention. Under this provision the report should include:

- Information on the definition of enforced disappearance in domestic law, including indications as to whether such a definition is in full conformity with the Convention, including all three constitutive elements: 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; the refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person; and, as a consequence, the placement of such a person outside the protection of law
- In the absence of a definition of enforced disappearances in domestic law which is in full conformity with the Convention, the report should include information on criminal or legislative provisions which are invoked to deal with cases of enforced disappearances.

Article 3

14. This article introduces the obligation of the State party to take appropriate measures to investigate acts of the nature of enforced disappearance committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to judge and sanction those responsible. Under this provision the report should include: information on how the States prohibits and prosecutes the conduct defined in article 2 of the Convention when it is committed by persons or groups acting without the authorization, support or acquiescence of the State.

Article 4

15. By virtue of this article, the State party has the obligation to enact domestic legislation criminalizing enforced disappearance in terms that are consistent with the definition in article 2. Under this provision the report should include:

- Information on the steps undertaken to enact domestic legislation criminalizing enforced disappearance as an autonomous offence in terms that are consistent with the definition in article 2
- Information on how enforced disappearance is separately defined as a crime qualitatively distinguishable from other offences that may be related to, but different in nature from, enforced disappearance, such as abduction, abduction of children, arbitrary arrest, deprivation of liberty, torture, and deprivation of life or similar crimes which may already exist in the domestic criminal code.

Article 5

16. By virtue of this article the State party has the obligation to codify the widespread or systematic practice of enforced disappearance as a crime against humanity and ensure that this attracts the consequences defined under applicable international law. Under this provision, the report should include:

- Information on the definition of enforced disappearance as a crime against humanity in conformity with applicable international law, namely when it is committed as a part of a widespread or systematic attack against a civilian population
- Information on the consequences provided for under domestic law in the light of applicable international law with cross-references to the implementation in particular of articles 7 and 8 of the Convention.

Article 6

17. This article introduces the obligation of the State party to establish a regime of criminal responsibility, including superior responsibility, in relation to enforced disappearance. The report should indicate:

- Whether legislation adequately defines the principles of criminal responsibility, in accordance with applicable international law, including committing, ordering, soliciting, inducing, attempting, being complicit, and participating in acts of enforced disappearance, or other circumstances which by virtue of their nature are similar to those mentioned
- Whether legislation and jurisprudence exist with regard to the prohibition of invoking superior orders, including orders from military authorities, as a justification of enforced disappearance. If these exist, the State should provide information on their practical implementation
- Whether domestic legislation allows the sanctioning of a superior who: knew, or consciously disregarded information which clearly indicated that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance; exercised effective responsibility for and control over activities which were concerned with enforced disappearance; and failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution
- Whether there are any circumstances in which a subordinate is permitted lawfully to oppose an order to commit acts of enforced disappearance and remedies available to him/her. Indicate information on any such cases that may have occurred
- Whether the position of public authorities with respect to the notion of “due obedience” as a criminal law defence has any impact on the effective implementation of this prohibition.

Article 7

18. This article introduces the obligation of the State party to punish acts of enforced disappearance by appropriate penalties that take into account the extreme seriousness of the crime, as well the possibility to establish mitigating or aggravating circumstances related to the behaviour of the perpetrator(s). Under this provision, the report should include information on:

- The sanctions provided for in the national criminal code for acts of enforced disappearance in accordance with international standards as well as disciplinary sanctions established for those convicted for enforced disappearance
- The maximum sanction provided for in the national criminal code
- The application of mitigating or aggravating circumstances, as established in paragraph 2 (a), including in the latter case, taking into account acts of particular cruel or discriminatory nature, the death of the disappeared person, the enforced disappearance in respect of pregnant women, minors, persons with disabilities or other persons in situation of particular vulnerability.

Article 8

19. By virtue of this article, and without prejudice to article 5, a State party which applies a statute of limitations in respect of enforced disappearance must take into consideration the extreme gravity of the crime and the statute of limitations cannot start until the fate or whereabouts of the victims have been clarified, keeping in mind the

continuous nature of enforced disappearance. During the time limit stated within the statute of limitations, the victims must be guaranteed the right to an effective remedy. The report should include:

- Information on whether a statute of limitations applies to enforced disappearance in the national legislation, detailing the duration of the time limit after which the crime cannot be legally prosecuted. Information shall relate to the statute of limitations both for criminal proceedings and sanctions
- Information on whether domestic legislation explicitly establishes that crimes against humanity, including enforced disappearance, are imprescriptible
- Information on the steps undertaken to ensure that the commencement of the enforced disappearance is not taken as a reference to apply the statute of limitations, in conformity with the Convention
- Information on how the State guarantees that no statute of limitations applies for criminal, civil or administrative actions brought by victims seeking the right to an effective remedy. Include concrete examples if they exist
- Effective remedy in relation to the statute of limitations.

Article 9

20 By virtue of this article, the State party is under the obligation to ensure jurisdiction for acts of enforced disappearances committed in any territory under its control, on board a ship or aircraft registered in that State, or allegedly perpetrated by one of its national or when the victim is one of its nationals. Equally the State is under the obligation to exercise universal jurisdiction on persons accused of acts of enforced disappearance when they are present on any territory under its jurisdiction, namely either to prosecute or extradite for trial abroad or remit them to an international tribunal. Under this provision, the report should include information on:

- Measures taken to establish jurisdiction in the cases contemplated under (a), (b) and (c) of paragraph 1. Examples of cases where (b) and (c) were applied should also be included
- Measures taken to establish jurisdiction in cases where the alleged offender is present in the territory of the reporting State and the latter does not extradite him/her. Examples of cases where: (i) extradition was granted and (ii) extradition was denied
- Legal provisions, including any treaties, concerning mutual judicial assistance that apply to ensure jurisdiction for acts of enforced disappearances
- Cases involving the offence of enforced disappearance in which mutual assistance was requested by or from the reporting State, including the result of the request.

Article 10

21. By virtue of article 10 the State party must exercise its jurisdiction, particularly by investigating a person who is in the territory and is alleged to have committed an enforced disappearance. The report should provide information on:

- The domestic legal provisions concerning, in particular: the custody of that person or other precautionary measures to ensure his/her presence; his/her right to consular assistance; the obligation of the reporting State to notify other States that might also have jurisdiction on the person is custody; the circumstances of the detention, and, whether it intends to exercise jurisdiction

- Which procedures are in place to guarantee that a person investigated for having allegedly committed enforced disappearances can access consular assistance

Article 11

22. This article contains the obligation of the State party to initiate prosecutions relating to acts of enforced disappearance, whenever it has jurisdiction, unless it extradites the alleged offender or surrender him or her to another state or to an international criminal tribunal. Any alleged offender has the right to a fair trial. The report should provide information on:

- The legal framework which enables national courts to exercise universal jurisdiction over the offence of enforced disappearance
- The competent authorities in charge of the implementation of the various aspects of article 11, cross-referencing with article 16
- The application by the authorities of the standard of evidence for prosecution and conviction that are no less stringent than those applied in case of article 9
- Measures to ensure the fair trial of the alleged offender at all stages of the proceedings, including the right to legal counsel, the right to be presumed innocent until proven guilty, the right to equality before courts, etc.
- Measures to ensure that the standards of evidence required for prosecution and conviction apply equally whether the alleged offender is a national of the State or a foreigner who committed acts of enforced disappearance abroad
- Information on which authorities are competent to investigate and prosecute those accused of enforced disappearance. In particular, it must be clarified whether, pursuant to domestic law, military authorities would be competent to investigate and prosecute persons accused of enforced disappearance
- Examples of practical implementation of the measures referred to above.

Article 12

23. By virtue of this article, the State party must guarantee the right of any individual who alleges that a person has disappeared, to report the facts and to have his/her case promptly and impartially investigated, as well as the protection of the complainant and witnesses against ill-treatment or intimidation. The competent authorities of a State shall investigate cases of enforced disappearance *ex officio*, that is, even in the absence of a formal complaint. Such authorities shall have the resources and the access to places of detention to carry out the investigations. The State must prevent and sanction any act aimed at hindering the conduct of the investigations. The report should include information on:

- The process followed and the mechanisms used by the relevant authorities to clarify and establish the facts relating to an enforced disappearance
- Mechanisms available to individuals who allege that a person has been subjected to enforced disappearance
- Access of any complainant to independent and impartial authorities, including information on any discriminatory barriers to the equal status of all persons before the law, and any rules or practices preventing harassment or re-traumatization of victims
- Remedies available to the complainant in case the competent authorities refuse to investigate his/her case

- Mechanisms for the protection of the complainants, their representatives, witnesses and other persons participating in the investigation, prosecution and trial, against any kind of intimidation or ill-treatment
- Statistical data disaggregated, inter alia by sex, age, and geographical location on the number of complaints of enforced disappearance submitted to the domestic authorities and the results of the investigations
- Information on any office within police forces, prosecutorial or other relevant offices specifically trained to start investigations on cases of alleged enforced disappearance including information of the power to start investigation ex officio, the budget and the human resources at their disposal
- Limitations, if any, placed on those authorities which may restrict their access to places of detention where there are grounds to believe that a disappeared person may be present
- Information on any measures such as administrative disqualifications, provided under domestic legislation, aiming at removing suspects from any posts where they would be in a position to influence the investigations or threaten persons involved in the investigations of cases of enforced disappearances.

Article 13

24. By virtue of this article, the State party is under a number of obligations regarding extradition of persons suspected, accused or convicted of enforced disappearance. The crime of enforced disappearance shall not be considered a political offence or as an offence connected with a political offence, or as an offence inspired by political motives for the purposes of extradition. The State shall ensure that it is an extraditable offence in all treaties with other States. In case of absence of an extradition treaty, the Convention shall be considered the necessary legal basis for extradition. The State shall remove any obstacle in extradition which may exist in the domestic law. By all means extradition shall take place according to human rights safeguards. The report should provide information on:

- National legislation which makes enforced disappearance an extraditable offence in all treaties with all States
- Extradition treaties between the reporting State and other States parties to the Convention that include enforced disappearance as an extraditable offence
- Information on possible obstacles in the implementation of those treaties
- Example of cooperation among States in which the Convention was used as basis for the extradition
- Cases where the reporting State granted the extradition of persons alleged to have committed any of the offences referred to above
- Whether domestic legislation qualifies enforced disappearance as a political offence, or as an offence connected with a political offence or as an offence inspired by political motives. If this is the case, which steps the State is taking in order to comply with the provision of the Convention
- Any treaty between the State and other countries explicitly stating the enforced disappearance is a basis for extradition
- Which authority determines the extradition of a person and on the basis of what criteria, including reference to human rights safeguards, cross-referencing with article 16.

Article 14

25. By virtue of this article, States parties undertake to provide the greatest extent of mutual legal assistance in all matters relating to the criminal proceedings on cases of enforced disappearance, subject to the conditions of domestic law of the requested State. The report should provide information on:

- Any treaty or provision of mutual legal assistance among States parties applicable to enforced disappearance
- Any specific example of the mentioned mutual cooperation
- Information on cooperation with other States which are not party to the Convention.

Article 15

26. By virtue of this article, States parties undertake to provide the greatest extent of mutual assistance in all matters relating to the assistance of victims of enforced disappearance and in the search of their fate or whereabouts. The report should provide information on:

- Any new agreement the State is entering into or amending in order to provide mutual assistance, also cross-referencing with article 14, to victims of enforced disappearance and facilitate their search
- Any specific example where this kind of cooperation has been granted and which specific measures have been undertaken in this sense.

Article 16

27. This article prohibits the expulsion, return (refoulement), surrender or extradition of a person to a State where there are substantial grounds for believing that he/she might be subject to enforced disappearance. The report should contain information on:

- Domestic legislation with regard to such prohibition, including, in addition to enforced disappearance, the risk of other forms of serious harm to life and personal integrity
- Whether legislation and practices concerning terrorism, emergency situations, national security or other grounds that the State may have adopted have had any impact on the effective implementation of this prohibition
- Which authority determines the extradition, expulsion, removal or refoulement of a person and on the basis of which criteria
- Whether a decision on the subject can be challenged and reviewed, if so, before which authority, what are the procedures applicable and whether such procedures have suspensive effects
- The kind of training received, cross-referencing with article 23, by officers dealing with the expulsion, return or extradition of foreigners.

Article 17

28. By virtue of this article, States parties undertake that no one shall be held in secret detention. All detainees must be held in officially recognized places in order to be easily located and protected by law. To that effect, States parties must keep official registers of all detainees. The report should include information on:

- Prohibition in the national law of secret detention or unofficial detention
- Conditions under which orders of deprivation of liberty may be given and by which authorities

- Measures requiring prompt notification of and access to lawyers, doctors, family members and, in the case of foreign nationals, consular notification
- Measures to ensure that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice. Specify whether domestic law establishes specific conditions in this sense and, if so, which conditions. The measures applicable to the case of foreigners communicating with consular authorities should be specified
- Guarantees for any independent bodies or mechanisms established to inspect prisons and other places of detention, including authorization for international monitoring and inspections by national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or other regional human rights instruments, national human rights institutions or non-governmental organizations
- Existence of administrative mechanisms to inspect prisons, and whether belong or not to the penitentiary administration
- Information on the guarantees for any person with a legitimate interest to bring proceedings before the court in order to decide on the lawfulness of a detention
- Existence, or steps undertaken for the creation, of one or more official and updated registers of detention which include all the elements contained in article 17, paragraph 3, of the Convention.

Article 18

29. By virtue of this article, the State party is under an obligation to disclose to any person with a legitimate interest, such as the relatives of the person deprived of liberty, their representatives or their counsel, the information listed in article 17, paragraph 3, subject to articles 19 and 20. The State must protect all persons referred above from intimidation or sanction as a result of their search for information. The report should include:

- Information on existing legislation which guarantees the rights of any person with a legitimate interest to access the information referred to in article 17, paragraph 3
- Information on any existing restriction on exercising the rights of any person with a legitimate interest to access the information referred above
- Information on existing legislation to ensure protection from any ill-treatment, intimidation or sanction of persons who request access to information and all those involved in the investigation and the existence of mechanisms to that effect.

Article 19

30. By virtue of this article, the State party is under the obligation to use the information referred to in article 17, paragraph 3, for the sole purpose of the search for the disappeared or in criminal proceedings relating to cases of enforced disappearance or to exercise the right to obtain reparation. The collection and use of the information shall never infringe the human rights, fundamental freedoms and dignity of an individual. The report should include:

- Information on the procedures used to obtain genetic data or medical information and whether they are consistent with article 19, paragraph 1
- Information on how the data obtained are used
- Information on the provisions for the protection, and eventual storage, of such genetic data and medical information
- Information on the existence of databases of genetic data.

Article 20

31. By virtue of this article, where a person is under the protection of law and the deprivation of liberty is subject to judicial control, States parties have recognized the possibility to restrict access to information, guaranteed by article 18, only on an exceptional basis, where strictly necessary and when provided by law, and if the transmission of the information would adversely affect the privacy or safety of the person, or hinder a criminal investigation. Indeed, any restriction to access to information shall be in accordance with the law and in conformity with the objectives of the Convention. The State must guarantee, without restriction, that any person with a legitimate interest has a non-derogable right to a prompt and effective judicial remedy to obtain information without delay. The report should include:

- Information on the existence of domestic law that would enable the restriction of access to information on persons deprived of their liberty. Information shall indicate the nature and duration of the mentioned measures, and how they are in conformity with applicable international law and standards and with the objectives of the Convention.
- Information on any kind of restriction on the right to access information on persons deprived of their liberty that may still be included in the domestic legislation and the steps undertaken to suppress it.
- Information on existing guarantees that any person with a legitimate interest has the right to a prompt and effective judicial remedy to obtain information without delay. Information on whether such guarantees can be suspended at any time or under any specific circumstance.
- Information on existing means of appeal against the refusal to disclose such information on persons deprived of their liberty.

Article 21

32. By virtue of this article, the State party is under the obligation to release persons deprived of their liberty in ways that permit a reliable verification that they have actually been released, assuring their physical integrity and their ability to exercise their rights. The report should include:

- Information on existing national legislation and practice to ensure the reliable verification of the release of persons deprived of their liberty
- Information on the competent authorities in charge of supervision of the release according to domestic legislation and the applicable international law.

Article 22

33. By virtue of this article, the State party is under the obligation to prevent and impose sanctions on failure to guarantee that any person deprived of his or her liberty or any other person with a legitimate interest is entitled to take proceedings before a court to determine: the lawfulness of the deprivation of liberty; failure to record the deprivation of liberty of a person; and refusal to provide information on the deprivation of liberty or the provision of inaccurate information, even though the legal requirements for providing such information have been met. The report should include:

- Information on the legislation applicable to the guarantee that any person deprived of his or her liberty or any other person with a legitimate interest be entitled to take proceedings before a court

- Information on mechanisms in place to prevent the unlawful deprivation of liberty, the failure to record the deprivation of liberty and the refusal to provide information on the deprivation of liberty or the provision of inaccurate information
- Detailed information on the sanctions (criminal, administrative and disciplinary) foreseen for the above mentioned conduct.

Article 23

34. By virtue of this article, the State party is under the obligation to train law enforcement personnel, both civil and military, medical personnel, public officials and other persons involved in the custody of persons deprived of liberty, on the principles and provisions enshrined in the Convention. States parties shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited and that a person who refuses to obey such an order will not be punished. The report should include:

- Information on the existing training programmes, or steps undertaken to establish them, aimed at preventing that the above-mentioned persons becoming involved in cases of enforced disappearances, emphasizing the importance of the prevention and investigation of cases of enforced disappearances and ensuring that those persons recognize the urgency of solving cases of enforced disappearances
- Information on the nature and frequency of the instruction and training and which administrative authorities are in charge of the training
- Information on the measures taken to ensure that all those involved in the custody or treatment of persons deprived of liberty understand the duty to report acts of enforced disappearances to their superiors or other authorities that can provide remedy
- Information on domestic legislation explicitly providing that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited and that persons who refuse to obey such an order will not be punished.

Article 24

35. This article introduces the definition of victim which, for the purpose of the Convention, is broad and includes any individual who has suffered harm as the direct result of an enforced disappearance. The State party is under the obligation to guarantee the right of the victims to know the truth on the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person, as well as the right to obtain reparation and prompt, fair and adequate compensation. By virtue of this article, States are under the obligations to: investigate and ensure the location of the disappeared persons and, in the event of death, to locate, respect, and return the remains to the next-of-kin; to provide reparation and compensation; to take appropriate steps to ensure the legal status of disappeared persons and their relatives; and to guarantee the right of the relatives to form and participate in associations concerned with enforced disappearances. The report should provide information on:

- How the broad definition of “victim”, to include both the disappeared person and any individual who has suffered harm as the direct result of the enforced disappearance, is reflected in domestic law
- Existence of, or steps undertaken to establish, mechanisms to ensure the right to know the truth on the circumstances of the enforced disappearance, and the fate of the disappeared person
- How such mechanisms ensure the right of victims to be informed on the progress and results of investigations and participate in their proceedings

- Existence of, or steps undertaken to establish, mechanisms to conduct investigations, locate victims and, in the case of death, locate, respect and return their mortal remains to relatives
- Existence of, or steps undertaken to establish, protocols to handle mortal remains of disappeared persons to their families in line with international standards
- Existence of, or steps undertaken to systematically collect ante-mortem data related to the persons disappeared and their relatives and to set up national databases of DNA relevant to identify victims of enforced disappearance
- Existence of, or steps taken to establish, mechanism for storage of genetic material of the disappeared persons and their relatives
- Procedures in place for obtaining compensation and reparation for victims and whether these procedures are codified or in any way formalized
- The kind of reparation provided to victims and whether it comprises compensation, restitution, rehabilitation, satisfaction including restoration of dignity and reputation, and guarantees of non-repetition
- Existence of rehabilitation programmes in the country for victims of enforced disappearance
- Existence of, or steps taken to establish, procedures to recognize the legal status of a disappeared person and the issuance of legal documents, preferably declarations of absence by enforced disappearance and not declarations of death, which can allow the relatives of the disappeared person to solve issues relating to social welfare, financial matters, family law and property rights
- Existing legislation and administrative procedures that guarantee the rights of the victims to form and participate in associations concerned with enforced disappearances
- Consultations in place to ensure that the associations of families of disappeared have a role in the draft of relevant legislation.

Article 25

36. By virtue of this article, the State party must prevent and lawfully punish the wrongful removal of: children submitted to enforced disappearance; children whose parents are subjected to enforced disappearance; and babies born during the captivity of pregnant mothers subjected to enforced disappearance; as well as the falsification, concealment or destruction of documents attesting the true identity of those children. States must fully cooperate with others in the search for disappeared children and the return of children to their families of origin. Taking into consideration the best interest of the children, States parties must have legal procedures in place to review adoption and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance. The report should include information:

- Information on domestic legislation (criminal, civil and administrative) applicable to: the wrongful removal of children submitted to enforced disappearance; children whose parents are subjected to enforced disappearance; babies born during the captivity of pregnant mothers subjected to enforced disappearance; as well as to the falsification, concealment or destruction of documents attesting the true identity of those children
- Existing mechanisms, or the steps undertaken to create them, for the search and identification of disappeared children and procedures to return them to their families of origin, including the existence of DNA databases

- Procedures in place to guarantee the right of disappeared children to have their true identity re-established
- Existence of programmes related to assisting adults who suspect they are children of disappeared parents to establish their true identity
- Procedures in place to guarantee the families their right to search for child victims of enforced disappearances; procedures in place to review and, if necessary, annul adoption of children that originated from an act of enforced disappearance
- Cooperation with other States in the search or identification of children of disappeared parents
- National legislations and procedures that guarantee that in all actions concerning children, whether undertaken by public institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration
- Information on how the children, who are capable of forming their own views, have the right to express those views freely in all matters related to enforced disappearance which are affecting them
- Statistical data on cases of enforced disappearances disaggregated, inter alia by sex, age, ethnic origin and geographical location.

III. Presentation of the report

37. The report should be accompanied by sufficient copies (if possible in English, French or Spanish) of the principal legislative and other texts referred to in the report. These will be made available to members of the Committee. It should be noted, however, that they will not be reproduced for general distribution with the report. It is desirable therefore that, when a text is not actually quoted in or annexed to the report itself, the report should contain sufficient information to be understood without reference to that text.

38. States parties may wish to present their report under article 29 of the Convention with the common core document referred to in document HRI/MC/2004/3, which contains draft guidelines for its preparation. This option was encouraged by the third inter-committee meeting held in Geneva on 21 and 22 June 2004 (see document A/59/254, report of the chairpersons of the human rights treaty bodies on their sixteenth meeting).

39. Reports under article 29 of the Convention should be submitted in electronic form (on USB key, CD-ROM or by e-mail), accompanied by a printed paper copy. As required in paragraph 19 of the harmonized guidelines, treaty-specific documents should not exceed 60 pages (A4-size paper, with 1.5 line spacing; and text of 12 points in the font Times New Roman), and the submission of subsequent additional information should be limited to 40 pages
