General Allegation

Republic of the Philippines

January 2026

The Working Group on Enforced or Involuntary Disappearances (hereafter, 'the Working Group') received information from the sources concerning obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter, 'the Declaration') by the Republic of the Philippines.

1. This general allegation focuses on: (a) a reported increase in cases of alleged enforced disappearances between 2022 and 2025, especially with regard to human rights, land, natural resources and environment defenders, often involving Indigenous Peoples; (b) difficulties encountered in the adequate investigation of reports of enforced disappearance; (c) lack of a protocol to search for disappeared persons; (d) instances of putting undue burden on, and harassment against, relatives of disappeared persons; and (e) failure to acknowledge the consequences of the continuing nature of the crime of enforced disappearance with regard to the applicable legislation and the corresponding obstacles in obtaining adequate financial assistance and reparation.

a) Reported increase in cases

2. According to the information received by the Working Group, between 2022 and 2025, 56 cases of disappearance have been recorded, mostly concerning persons involved in the defence of human rights and, in particular, of the land, natural resources and the environment, often belonging to Indigenous Peoples. The Working Group has received credible allegations in the sense that authorities fail to carry out thorough and effective investigations on these cases as potential enforced disappearances, rather classifying them as kidnappings or instances of human trafficking. As repeatedly emphasised by the Working Group, until a proper and comprehensive investigation is conducted, it is not possible to rule out the possibility of the direct or indirect involvement of public officials, and therefore enforced disappearance must be included among the lines of investigation.

b) Difficulties encountered in the adequate investigation of reports of enforced disappearance

3. The sources further alerted the Working Group about the existence of obstacles in thorough and effective investigations directed at identifying and prosecuting those responsible for enforced disappearance. In 2023, the Department of Justice (hereafter, 'DOJ') released Department Circular 20 which, among others, raises the evidentiary standard to be met before a preliminary investigation begins from "minimum probable cause" to "reasonable certainty of conviction".[1] Bearing in mind the peculiarities of the crime of enforced disappearance, which, by nature, is shrouded in secrecy, the application of this evidentiary standard has allegedly dramatically reduced the number of preliminary investigations into cases of enforced disappearance and facilitated impunity.

[1] Available at: https://doj.gov.ph/files/2023/DC_2023/DC%20020%20dated%2031%20March%202023.pdf.

4. Allegedly, when confronted with the existence of these obstacles by civil society organisations and relatives of disappeared persons, the DOJ held that, albeit recognising the peculiarities of enforced disappearance, it is unlikely that the memorandum circular will be amended to make an exception for this specific crime, due to the bureaucratic difficulties that this would entail. In the present circumstances, the opening of preliminary investigations concerning cases of enforced disappearance reportedly remains extremely complex, if not virtually impossible.

c) Lack of a protocol to search for disappeared persons

5. Sources informed the Working Group about the poor implementation of the 2012 Anti-Enforced Disappearance Act (RA 10353). In particular, although various sections of the law require that competent authorities take all necessary measures to search for and find disappeared persons, implementing agencies and, in particular, the Philippine National Police (hereafter, 'PNP'), have reportedly admitted lacking a protocol in this regard.

6. Moreover, although an Inter-Agency Committee on extra-legal killings, enforced disappearances, torture and other grave violations to the rights to life, liberty and security of persons (hereafter, 'IAC') was indeed set up pursuant to Administrative Order No. 35 (2012), with the mandate to, among other tasks, solve cases of enforced disappearance, it reportedly has not produced any meaningful result, especially in terms of searching for the disappeared and clarifying their fate and whereabouts.

d) Instances of putting undue burden on, and harassment against, relatives of disappeared persons

7. Moreover, the Working Group has received information according to which, both the DOJ and the PNP would often try to shift the burden of investigations through the production of evidence and collection of testimonies on relatives of disappeared persons, then blaming them for the lack of progress in the determination of the circumstances of the cases and in the identification of those responsible. This situation is the source of additional distress for persons who are already struggling with the anguish and despair caused by the lack of information on the fate and whereabouts of their loved ones.

8. The undue burden placed on relatives of disappeared persons referred to in the previous paragraph must be read in the context of a reported climate of stigmatisation and harassment of relatives of disappeared persons. In this regard, instances where the police, representatives of the DOJ and of the armed forces of the Philippines have shown a hostile attitude vis-à-vis relatives of disappeared persons have been reported. The Working Group has been informed that, instead of providing adequate support and assistance in the search for the disappeared and in the corresponding investigations, the mentioned authorities have often questioned the disappearance of the person concerned, insinuating that he or she might have voluntarily left to join armed rebel groups.

9. Further information received by the Working Group indicates that when writs of *amparo* are lodged, in the attempt to overcome the lack of effectiveness of *habeas corpus* writs, these are oftentimes disregarded based on an alleged lack of threats to the person, and/or a lack of

evidence to prove such risk.[2] This denial may entail in practice a lack of access to an effective remedy for those forcibly disappeared, those who have surfaced, witnesses, or persons associated with them.

e) Failure to acknowledge the consequences of the continuing nature of the crime of enforced disappearance with regard to the applicable legislation

10. As mentioned, the Anti-Enforced Disappearance Act was adopted in 2012. Section 21 of the Act recognises the continuing nature of the offence, establishing that "an act constituting enforced or involuntary disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and whereabouts of the disappeared person and such circumstances have not been determined with certainty". The law is further developed by the Implementing Rules and Regulations (hereafter, 'IRR'), which set out detailed procedures for compliance and victim identification, among others.

11. As the Working Group has emphasised in its general comment on enforced disappearance as a continuous crime (A/HRC/16/48, para. 39), the recognition of the continuous nature of the offence bears consequences with regard to the application of the principle of non-retroactivity, including in criminal law. In particular, the Working Group has clarified that "[…] one consequence of the continuing character of enforced disappearance is that it is possible to convict someone for enforced disappearance on the basis of a legal instrument that was enacted after the enforced disappearance began, notwithstanding the fundamental principle of non retroactivity. The crime cannot be separated and the conviction should cover the enforced disappearance as a whole" (para. 5 of the general comment).

12. According to the information received by the Working Group, the authorities in the Philippines do not implement the above-mentioned principles and refuse to apply the Anti-Enforced Disappearance Act with regard to cases of enforced disappearance commenced prior to 2012, although they are still ongoing.

13. On the one hand, the national prosecutor's office reportedly refused to apply the Anti-Enforced Disappearance Act and immediately dismissed a case concerning the enforced disappearance of six workers of the Paper Industries Corporation of the Philippines (known as 'PICOP 6') commenced on 14 October 2000 and still ongoing, citing the principle of non-retroactivity. A motion of reconsideration and a motion to resolve were lodged respectively in 2016 and in 2021. However, the Office of the Secretary of the DOJ upheld the findings of the prosecutor. The Working Group has been informed that this interpretation has had a chilling effect in the lodging of cases pursuant to the 2012 Act.

14. On the other hand, according to the information received by the Working Group, the failure to apply the 2012 Anti-Enforced Disappearance Act to cases commenced prior to 2012 and still continuing has had the additional consequence to prevent relatives of the disappeared persons concerned from receiving the financial assistance and measures of reparation, including compensation and rehabilitation, provided for in Sections 26 and 27 of the Law.

[2] https://sc.judiciary.gov.ph/wp-content/uploads/2023/07/07-9-12-SC.pdf

15. With regard to the allegations contained in this document, the Working Group would like to bring to the Government's attention the following provisions of the Declaration:

Article 2

1. No State shall practice, permit or tolerate enforced disappearances.

2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.

3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished.

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 17

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.

2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.

3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation.

16. The Working Group wishes to recall the obligations of the State pursuant to the 2019 Guiding Principles for the Search for Disappeared Persons; the Working Group's General comment on the Right to the Truth in Relation to Enforced Disappearances (A/HRC/16/48, para. 39), which elaborates on the right to the truth as both a collective and an individual right; its report on standards and public policies for an effective investigation of enforced disappearances; as well as the thematic section of its annual report on reparations and enforced disappearance (A/HRC/22/45, paras. 46-68) and its thematic study on enforced disappearances and economic, social and cultural rights. In addition, the Working Group wishes to refer to the thematic study on enforced disappearance in the context of the defence of land, natural resources and the environment. It also wishes to recall earlier recommendations to ratify the International Convention on the Protection of all Persons from Enforced Disappearance and to recognise the competence of the Committee on Enforced Disappearances to receive and examine individual and inter-state communications.

17. The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

    a) Please provide any additional information and any comment you may have on the above-mentioned allegations.

    b) Please provide information on the measures taken to conduct thorough, independent, impartial and effective investigations into the reported disappearances of human rights, land, natural resources and environmental defenders, with a view to determine whether – in light of the direct or indirect involvement of State agents – they amount to enforced disappearances and to identify all those responsible, prosecuting and sanctioning them.

    c) Please provide information on how the investigations and search activities concerning the reported disappearances of Indigenous Peoples take into account their special vulnerability and consider and respect specific cultural patterns.

    d) Please provide detailed information on how the application of the evidentiary standard of "reasonable certainty of conviction" to the opening of preliminary investigations is compatible with the obligation to carry out investigations on cases of enforced disappearance as spelled out in Article 13 of the Declaration.

    e) Please provide information on how the competent authorities carry out their obligation to investigate cases of enforced disappearance *ex officio* even in the absence of any formal complaint.

    f) Please provide information on the measures taken to protect relatives of disappeared persons and all those involved in the investigation and search activities against ill-treatment, intimidation or reprisals and to ensure that any such instances are appropriately punished.

g) Please provide information on the criteria applied to adjudicate on writs of *amparo* lodged by relatives of disappeared persons, in order to grant them, witnesses and any person having a legitimate interest adequate protection, including from threats and reprisals.

h) Please provide information on the measures taken to fully implement the 2012 Anti-Enforced Disappearance Act, including through the provision of adequate human, financial and technical resources.

i) Please provide information on the measures taken to ensure the implementation of the 2019 Guiding Principles for the Search for Disappeared Persons and, in particular, to secure that the search is governed by a public policy (Principle 3), conducted on the basis of a comprehensive strategy (Principle 8), organised efficiently (Principle 10), coordinated (Principle 12), and governed by public protocols (Principle 16).

j) Please provide information on the measures undertaken by the IAC established pursuant to administrative order No. 35 to search for forcibly disappeared persons and what are the financial, human and technical resources allocated for such purpose.

k) Please provide information on the measures undertaken to ensure that the recognition of the continuous nature of the crime of enforced disappearance is adequately reflected in the application of the 2012 Anti-Enforced Disappearance Act, in line with international standards.

l) Please provide information on how the decision of the prosecutor's office to dismiss the applicability of the 2012 Anti-Enforced Disappearance Act in the case of the PICOP 6 and the subsequent rejection of the motion to review by the Office of the Secretary of the DOJ duly take into account the continuous nature of enforced disappearance and its consequences on the applicability of the principle of non-retroactivity in light of international standards.

m) Please provide information on the measures undertaken to ensure that relatives of persons who disappeared prior to 2012 and whose enforced disappearance is ongoing obtain financial assistance, compensation, rehabilitation and the measures of reparation provided for pursuant to the 2012 Anti-Enforced Disappearance Act.

n) Please provide information on any steps taken towards ratification of the International Convention on the Protection of All Persons from Enforce Disappearance and the recognition of the competence of the Committee on Enforced Disappearances to receive and examine individual and inter-state communications.

18. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-sessional report and on its website, where also any response received by your Excellency's Government will be made public.