General Allegation

137th session 15-24 September 2025

Indonesia/Timor-Leste

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 Indonesia and Timor-Leste.

1. This general allegation focuses on the forced removal of children from Timor-Leste to Indonesia during the Indonesian occupation (1975-1999) and the lack of adequate measures to assist their families in locating, identifying and reuniting with them, as well as to provide adequate psycho-social support to the children whose identity was often falsified or otherwise altered, and their family members. As mentioned, among others, by the Working Group in its report on the country visit to Timor-Leste (2011), many of these cases amount to enforced disappearances. Indeed, the Commission for the Reception, Truth and Reconciliation in East Timor[1] found that the mentioned cases occurred in a context of armed conflict, often involving actors affiliated with the Indonesian military, religious institutions and State-backed organisations.

2. The practice reportedly involved thousands of children, whose identity was altered. They grew up with a different name and often a different religion and language. Allegedly, many were denied education or subjected to abuse and stigma as "children of the rebels". Families searching for their children in Timor-Leste were equally stigmatised and spent decades unbeknownst of the fate and whereabouts of their loved ones. The Working Group has been informed that some families even built a burial site for their children, without knowing that they are alive in Indonesia, under a different name and identity.

3. In its report on the visit to Timor-Leste, the Working Group emphasised that "families that had their children taken from them must be assisted in their quest to locate their children" (para. 36). However, according to the information received by the Working Group, the limited results achieved in terms of location and identification since 2011 are mostly due to civil society-led initiatives, and lacked adequate support from either of the States concerned.

4. Pursuant to Art. 20 of the Declaration, States must devote their efforts to the search for, and identification of, such children, and to the restitution of the children to their families of origin. To these ends, States must cooperate and, where appropriate, conclude bilateral and multilateral agreements. However, the Working Group has been informed that there has not been a comprehensive process of acknowledgement, support or comprehensive reparation put in place by both Governments for the children that were unlawfully removed and their family members.

5. According to the information received, the lack of criminalisation of the autonomous offence of enforced disappearance in Indonesia makes it difficult to acknowledge the status of the

[1] The Commission functioned between 2002 and 2005. See http://www.cavr-timorleste.org/te/.

children concerned and their families as victims of enforced disappearance and consequently jeopardises the enjoyment of their rights.

6. The Working Group has also been informed that, in Timor-Leste, official commissions such as *Centro Nacional Chega* have taken initial steps to support reunification and search processes, even though its mandate and resources remain limited.

7. Moreover, the Working Group was informed that a joint Indonesia-Timor-Leste initiative to address the issue of disappeared persons, including children, as recommended by the Commission for Truth and Friendship, has stalled since 2016, when Regulation No. 72/2011, containing an Action Plan for the Implementation of the recommendations of the Commission of Truth and Friendship, expired.

8. In the absence of a comprehensive national policy or bilateral agreement between the Governments to search for the children concerned, cooperation was established between the respective National Human Rights Institutions (i.e. the Komisi Nasional Hak Asasi Manusia – Komnas HAM, and the *Provedoria dos Direitos Humanos e Justiça* Timor-Leste), and other ministries from both countries. However, the Working Group has been informed that, despite the signing of a memorandum of understanding in 2023, the latter lacks funding and any implementation framework.

9. According to the information received by the Working Group, civil society organisations have therefore been left to bear the brunt of the efforts to search for the children concerned and facilitate their reunification (which has been successfully achieved in 106 cases since 2013, numbers point to as many as 4,536 children removed from Timor-Leste).[2] The Working Group learned that the Indonesian Ministry of Foreign Affairs supported reunions with a small budget of around 3000 USD from 2017 and 2019, while, since then, there has not been any further support. Moreover, sources informed the Working Group that, even after reunification with their biological family, the persons concerned face significant obstacles in reclaiming citizenship, securing documentation or reintegrating into their communities of origin.

10. In this regard, it has been brought to the attention of the Working Group that Indonesia does not recognise dual citizenship for adults and this concretely hinders the possibility for victims to have flexibility to freely move and choose where to reside between Indonesia and Timor-Leste. Reportedly, most still reside in Indonesia in precarious conditions, unable to access housing, livelihood opportunities or permanent residency in Timor-Leste. Allegedly, neither Government has put in place a programme to provide adequate measures of reparation and psycho-social support to the persons concerned and their families.

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

Article 2

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

[2] See https://www.etan.org/etanpdf/2006/CAVR/07.8-Rights-of-the-Child.pdf, p. 77.

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 4

1. All acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.

2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases 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 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.

Article 20

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for and identification of such children and to the restitution of the children to their families of origin.

2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review, by the child's closest relatives.

3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.

4. For these purposes, States shall, where appropriate, conclude bilateral and multilateral agreements.

12. The Working Group wishes to recall that the absolute prohibition of enforced disappearances and the corresponding obligation to investigate them and hold perpetrators accountable have attained the status of *jus cogens*.

13. The Working Group recalls its general comment on children and enforced disappearances, whereby it held that "given that enforced disappearance is a continuous crime, its specific effects on a child could continue even after he or she reaches majority. Thus, the State obligations that arose when the child was under the age of 18 continue as long as those obligations are not fully complied with" (para. 4). With regard to the specific damage caused by the enforced disappearance of children, the Working Group emphasised that "the enforced disappearance of children and their separation from their parents or relatives harms in particularly grave ways the mental, physical and moral integrity of children. In all circumstances, as child victims of enforced disappearances or as relatives of a person who disappeared, they experience feelings of loss, abandonment, intense fear, uncertainty, anguish, and pain, all of which could vary or intensify depending on the age and the specific circumstances of the child. The Working Group considers that the separation of children from their families has specific and especially serious effects on their personal integrity that have a lasting impact, and causes great physical and mental harm" (para. 6).

14. In particular, the Working Group recalled the States' obligation to cooperate in the face of cases of enforced disappearance of children: "enforced disappearances of children can be transnational in scope. States must act with reciprocity and cooperation with other States in the search, identification, localization, and restitution of children who have been transported to another State or retained in another State as a result of an enforced disappearance. As required by article 20 of the Declaration, States shall, where appropriate, conclude bilateral and multilateral agreements for these purposes. The absence of such agreements should not be a barrier to the cooperation among States" (para. 46). In this regard, the Working Group

brings to the attention of your Excellences' Governments also the joint statement on illegal inter-country adoptions.

15. Moreover, the Working Group wishes to recall the obligations of the States 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); the General Comment on the right to recognition as a person before the law in the context of enforced disappearances (A/HRC/19/58/Rev.1, para. 42), and the thematic report on enforced disappearances on economic, social and cultural rights (para. 22).

16. The Working Group would be grateful for your Excellences' Governments 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 any measures undertaken to officially acknowledge as victims of enforced disappearance the children who were forcibly removed from Timor-Leste to Indonesia during the Indonesian occupation and their families.

    c) Please provide information on any measures undertaken to regulate the legal status of the children disappeared under the above-mentioned circumstances and that of their relatives, in fields such as social welfare, financial matters, family law, and property rights.

    d) Please provide information on any measures undertaken to codify enforced disappearance as an autonomous offence under domestic criminal legislation, particularly when not committed as part of a widespread or systematic practice.

    e) Please provide information on any measures – including the conclusion of bilateral agreements and diplomatic efforts – undertaken to search for and identify the children referred to in the present allegation and facilitate their reunification with the family of origin.

    f) Please provide information on the measures undertaken to ensure adequate financial, technical and human resources, as needed by the institutions involved in the search for the children referred to in the present allegation.

    g) Please provide information on any measures undertaken to support those who have been located and identified in re-establishing their identity, including their nationality – including, where appropriate, by allowing the recognition of dual citizenship – name and family relationships.

    h) Please provide information on the measures undertaken to guarantee that the children referred to in the present allegation and their relatives obtain reparations for the damage suffered, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.

    i) Where applicable, please provide concrete information on the measures taken to implement the recommendations of the Commission for Reception, Truth and Reconciliation in East Timor, in particular those included in the Section "Recommendations" (Chapter 11, para. 4.2.7). Please provide information on the measures undertaken to provide psycho-social support to the children referred to in the present allegation and their relatives.

j) Please provide information on the measures undertaken to assist the civil society organisations that support the children referred to in the present allegation and their relatives and to ensure their participation in the processes of search, as well as in the design of the corresponding policies.

17. The Working Group requests your Excellences' Governments 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 Excellences' Governments will be made public.