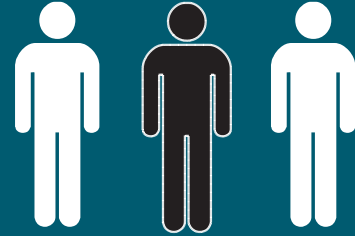


The United Nations Working Group on Enforced or Involuntary Disappearances

WHAT IS AN ENFORCED DISAPPEARANCE?



An enforced disappearance is composed of 3 elements:



Deprivation of liberty
against an individual's
will (such as detention,
abduction, or kidnapping)



**By State
officials**, or
at least with
their consent



Followed by a **refusal to
acknowledge** the deprivation of liberty,
or to disclose information on the
fate or whereabouts of the disappeared

Why is it a serious human rights violation?



It's used as a **strategy to spread
terror** within society, and isolate
human rights defenders and others
from their families and communities



It remains commonly
used by many
governments across **all
regions of the world**



It places the disappeared
**outside the
protection of the law**,
with no judicial oversight

Since 1980, the Working Group has
handled around **57,000** cases, out of
which **only 20%** have been clarified.

11,000

57,000

Who is a victim?



The **DISAPPEARED**:

Faces a high risk of **torture** or ill-treatment, and other human rights violations (such as being sexually abused or killed)



Suffers severe **psychological harm** out of fear from being killed, and from knowing the family remains clueless



The **FAMILY & RELATIVES**:

May be at **great risk** when seeking truth and redress



Suffer **mental anguish** from not knowing the fate or whereabouts of their loved ones



The prohibition of enforced disappearances is **absolute** under international law.

This is defined in two key texts of the United Nations:

Declaration on the Protection of All Persons from Enforced Disappearances – 1992

International Convention for the Protection of all Persons from Enforced Disappearance (CED) – 2006



The International Day for the Victims of Enforced Disappearances is marked each year on August 30.



60 countries are part of the Convention, China is not.

WHAT IS THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES (or WGEID)?



The **WGEID** was the first Special Procedures mandate (body of human rights experts) created by the United Nations, in 1980.

It is composed of **5 independent experts**, one from each region of the world. It has two roles:



Humanitarian: it serves as a communication channel between families and relatives of the disappeared, and the government concerned.



Preventive: it monitors States' efforts to fulfill their obligations under the 1992 Declaration.



NOTE: The WGEID does not directly investigate individual cases, adopt protection measures, or judge. It assists families and relatives in determining the fate or whereabouts of the disappeared.

WHAT CAN THE WORKING GROUP DO?



Present **annual reports** on its activities to the Human Rights Council (each year in September)



Conduct **country visits**



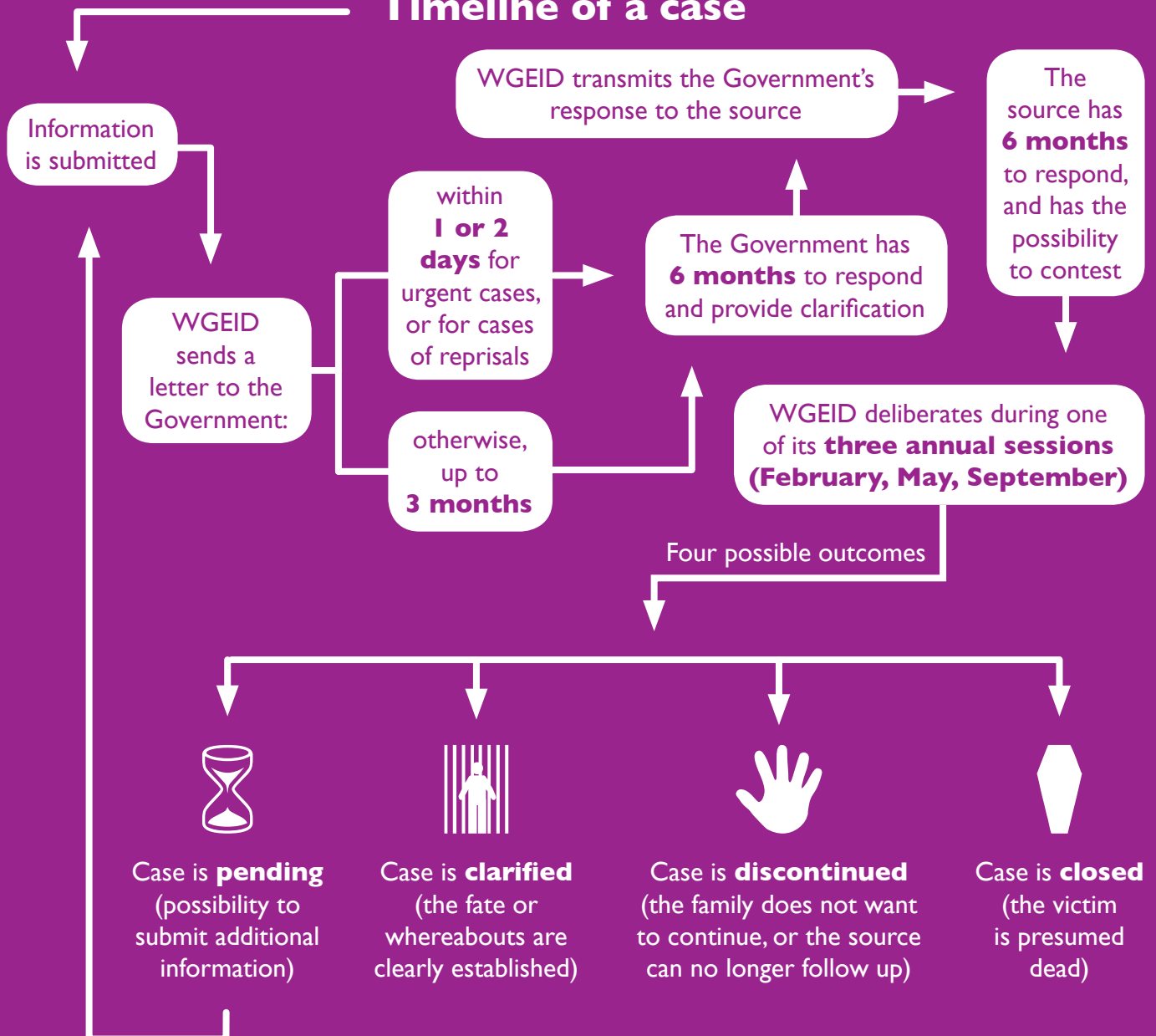
Interpret and define provisions of the 1992 Declaration (these are called '**General Comments**')

Send **letters to governments** about:



- Legislation or policies
- Obstacles to the implementation of the 1992 Declaration
- Individual cases, under different procedures depending on the nature and urgency of the case:
 - ➔ **Urgent cases** (happened within 3 months)
 - ➔ **Standard cases** (happened more than 3 months before)
 - ➔ **Cases of reprisals against relatives of victims**

Timeline of a case



HOW CAN I SHARE INFORMATION WITH THE WGEID?

To submit information on an individual case, I must:

- Obtain explicit **consent** from the victim's family members or legal counsel
- Be aware of the **risks** involved ('do no harm' principle), and request confidentiality of the source when submitting information
- Draft the submission using **this form**
- Send it to **wgeid@ohchr.org** (this email address is **not encrypted**), or submit the **information here**

SECURITY TIPS:

- Always assess **potential risks** for the victim, family or relatives, and other actors involved in the submission
- Ask for **confidentiality** of the source when submitting
- Bear in mind the risks of using non-encrypted **communication channels**
- Reach out to a **partner organization** to send your submission
- Report back if the source, the family, or relatives, face intimidation or **reprisals**



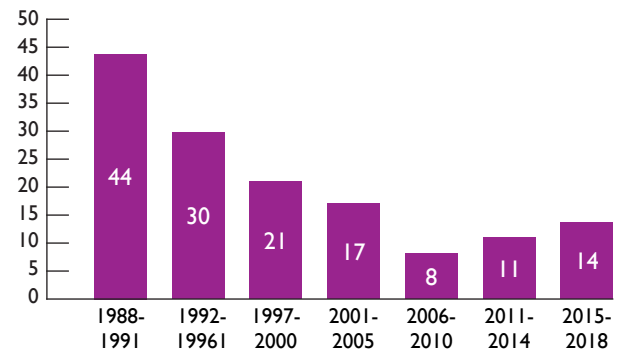
WHAT HAS THE WORKING GROUP DONE ON CHINA?

Since 1980, it has transmitted **145 cases** to China, including:

Lee Ming-che
Liu Xia
Gao Zhisheng

Wang Quanzhang
Jiang Tianyong
Li Heping

Xie Yang
Su Changlan
among others



As of September 2018, China had **not clarified 45 cases**.

Labour rights activist Fu Changguo

On 1 May 2019, the WGEID and other UN experts sent a joint letter to China on 5 cases of labour rights activists, including Fu Changguo, who was disappeared as a result of his advocacy for better working conditions and labour rights at the **Jasic Technology factory** in Shenzhen.

'De-extremification regulations' in Xinjiang

On 12 November 2018, the WGEID and other UN experts sent a joint letter on the 'de-extremification regulations' targeting **Uyghurs and other Turkic Muslims in Xinjiang**.

Residential Surveillance at a Designated Location (RSDL)

On 22 August 2018, the WGEID and other UN experts sent a joint letter to China concerning enforced disappearances under the system of 'Residential Surveillance at a Designated Location' ('**RSDL**').

What is the difference between being held incommunicado and being forcibly disappeared?

When a person is being held in incommunicado detention, they cannot communicate with the outside world, but they are not necessarily outside the protection of the law.



The victim is only considered forcibly disappeared if the government does not respond to any of the three following questions: whether the person is detained, where is the person detained, and if the person is alive or dead. **If any piece of information is missing**, then the person is disappeared, and placed outside the protection of law.

How long does an enforced disappearance last for?

An enforced disappearance is considered a **continuing crime** as long as the perpetrators continue to conceal the fate and whereabouts of the disappeared. This means that the perpetrators are still considered responsible for these acts **until the facts are clarified**, even if the victim is not alive anymore. My government must continue the investigation as long as the fate and whereabouts of the disappeared remain unclarified.



What must my government do to prevent and put an end to enforced disappearances?

My government has the obligation to take effective measures to prevent enforced disappearances, regardless whether such acts have occurred or not, and to terminate them. This is not limited to specific laws and regulations, but should also include the entire government, administrative organs, and the judiciary. The government must define policies and **adopt all other types of measures within its power to prevent and terminate disappearances**.



How should the law prohibit enforced disappearances?

Enforced disappearances violate a wide range of human rights protected by international law. However, the very act of enforced disappearance itself must be explicitly made a **separate criminal offense**, to be distinguished from abduction, kidnapping, and other forms of deprivation of liberty. Due to its **extreme seriousness**, it should be sanctioned by prison sentences, unless the perpetrator voluntarily contributes to clarifying the case.



What are my rights if I am deprived of liberty?

I have the right to be held in an **officially recognized place of detention**, such as police stations or military buildings. My government cannot hold me in secret detention facilities and must **promptly notify my family or legal counsel** of my place of detention. In addition, my government should maintain updated registers of all persons deprived of liberty and make that information widely available.



I also have the right to be **brought before a court** promptly after being detained. My **detention must be as brief as possible**, no more than a few days, before I am charged, or I can see a judge.

I am a victim. Do I have a right to redress?

Both the disappeared and their family are considered **full victims** of enforced disappearances: they have the right to **claim and receive adequate compensation** for the physical, psychological and other forms of harm they suffered. This includes not only monetary compensation, but also medical and psychological care, as well as full physical, legal and social rehabilitation. Full **restitution and reparation measures** must also restore victims' personal liberty, family life, citizenship, employment, property, and allow them to return to their homes.



What must my government do to protect my right to truth?

Each victim has the **right to know the truth** regarding the fate of the disappeared, the circumstances of the disappearance, as well as the progress and results of the investigation, including the identity of the perpetrators. My government must take measures to protect my right to truth, such as launching criminal investigations, and providing me with detailed information on the concrete steps taken to clarify the case. During the investigation, my government must provide me with full access to archives, and must ensure full protection to me and other victims, witnesses, relatives and participants in the investigation.

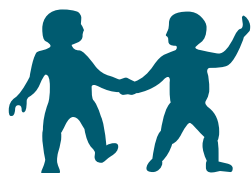


Truth must be told at the level of society, it is also a **collective right**. My government must preserve collective memory from extinction, and guard against arguments contesting the existence or the gravity of enforced disappearances. It can do so by publicly acknowledging and remembering enforced disappearances, preserving archives, disseminating knowledge, and creating “truth commissions” to shed light on past violations and facilitate reconciliation within society.

Overall, my government should take all necessary measures to promote truth, full reparations for victims, reconciliation within the society, and to ensure acts of enforced disappearances **will not be repeated in the future**.

Do children have specific rights to be protected from enforced disappearances?

Children suffer particularly severe harm in situations of enforced disappearances: they can be born during captivity of their mothers, their parents or legal representative can be disappeared, or themselves can be victims of disappearance. They may feel lost, abandoned, frightened, and anguished – separation from their families has a **lasting impact**, and causes great physical and mental harm, which requires appropriate and comprehensive psychological care. Children might be impacted differently according to their gender, age, religion, ethnicity, or other characteristics. Their needs must be properly understood, and they must be afforded **special protection**, as well as custody when they are separated from their family.



All the rights enjoyed by victims, together with all the mechanisms and State obligations to guarantee truth, justice and full reparations to victims, also apply to children. My government's policies and practices should be sensitive to the **child's characteristics and needs**, follow the **best interests of the child**, and ensure the child's **participation**, including the right to be heard directly. Children have the **right to have a legal identity** and to know their true biological identity: their identity documents cannot be modified, falsified, or destroyed. My government shall do its utmost to search for, and identify children born during their mothers' disappearance, and restitute those to their families of origin, taking into consideration the best interests of the child.

I am a woman. Do I have particular rights to be protected from enforced disappearances?

Women are often at the forefront of the struggle against enforced disappearances, joining together to learn truth and assist other victims. When women are disappeared, it is also a **form of gender-based violence**, and these victims can be at particular risks of sexual violence. This goes against my government's duty to ensure equal protection against discrimination.



If I am the relative of a disappeared, I can be negatively affected not only psychologically but also economically – for example, if my husband was the main breadwinner, but was disappeared, my economic situation can become precarious. My government should recognise this and make sure my rights are protected and that I and other women can contribute to policies to prevent enforced disappearances. I have a right to peaceful protest, and my government cannot attack me just because I am advocating for victims, or looking for my loved ones.