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Written statement* submitted by International Foundation Witnesses Ashoora, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2024]

* Issued as received, in the language of submission only.



Enforced disappearances in Canada

Introduction

Enforced or involuntary disappearance (EID or “enforced disappearance”) is an international crime that is binding on all states, including Canada, under customary international law. Enforced disappearance also violates treaty rights, including several rights guaranteed by the International Covenant on Civil and Political Rights (ICCPR), to which Canada acceded in 1976. Since 2017, Canada has been urged to accede to the ICPPED. This year, the ministers of the Canadian federal government, provinces and territories “agreed to continue discussions on Canada’s possible accession to the ICPPED.” Since 2018, the Canadian federal government has been consulting with all levels of Canadian government on the possibility of joining the ICPPED, but has not set a timeline for the consultations. Canada has called on other countries to ratify the ICPPED or expedite domestic legislation to criminalise enforced disappearances, and has joined UN General Assembly resolutions calling for global ratification of the Convention “as a matter of priority”

The disproportionate violence against Indigenous peoples in Canada includes the enforced disappearances of countless Indigenous children, women and men. Canada’s decades-long failure to prevent and end enforced disappearances is part of a long series of serious international human rights violations against Indigenous peoples. The constant reports of officially covered-up violence are leading to ever stronger accusations of genocide. One of the most insidious forms of human rights violations and state terrorism is enforced and involuntary disappearances. Enforced disappearances require the connivance, conspiracy and impunity of government forces. It deters the political opposition movements that are to be suppressed and leads to a nightmare for the families of the victims.

Most of the missing Native Canadians are believed to have been murdered by sex offenders or serial killers like William Pickton, who was convicted of murdering six women and is believed to have killed dozens more. But there have also been isolated cases of security forces actively targeting Indigenous people – dragging them to the outskirts of town and leaving them to freeze to death, a process that has become known as the “Starlight Tour”.

Canada’s failure to ensure effective and timely remedies for the disappearance of Indigenous people may amount to condoning international crimes of enforced disappearance. Canada’s obligations under international law require urgent steps to end official inaction and complicity. Concrete measures would be to accede to and implement the International Convention for the Protection of All Persons from Enforced Disappearance.

Indigenous women make up about five per cent of women in Canada, but they account for a scandalous 24 per cent of female homicide victims. From 2015 to 2020, 13 per cent of Indigenous women who were victims of homicide were missing at the time of their death. Many indigenous women and girls remain missing. The exact number is unknown as many missing persons cases have not been reported or have been misreported. Police have often labelled missing indigenous women and girls as “just an Indian woman partying, drunk or running away”. Such discriminatory assumptions contribute to the number of missing indigenous women and girls being underreported and miscounted.

Enforced disappearances strike at the heart of the rule of law. The above list is only a fraction of the global threat posed by enforced disappearances of human rights defenders, dissidents and journalists. Several successive UN General Assembly resolutions – arrived at by consensus of all UN member states – reaffirm on paper a global commitment to the elimination of enforced disappearances, including global ratification of the ICPPED.

The lack of ratification of the Convention contributes to impunity, as it continues to allow gaps in treaty protection in most countries around the world. Countries that are themselves confronted with the problem of enforced disappearances and have not acceded to or implemented the Convention may not feel legitimised to discuss enforced disappearances with other countries.

Recommendation

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance
 - Take all necessary measures to prevent the disappearance of women and girls, investigate, punish and eradicate this form of violence, regardless of whether it is enforced and committed by one or more persons. Remove legal obstacles that prevent women, their family members or friends from obtaining justice and, where possible, involve them in the investigation and tracing process, taking into account their wishes and opinions.
 - Consider possible additional vulnerabilities of indigenous women, women of African descent, disabled women, as well as vulnerabilities related to sexual orientation or gender identity and other factors related to women's intersectionality and diversity when developing and adopting prevention measures and following up lines of enquiry in missing women cases.
 - Include the issue of missing women and girls as a form of violence to be prevented, punished and eradicated in relevant plans and as a specific crime in legislation.
 - In cases of suspected enforced disappearance of women, take all necessary measures to conduct a comprehensive search and investigation from a gender perspective. Take into account the possible effects and forms of gender-based violence that may occur in cases of enforced disappearance, as well as the possibility that the victim has disappeared because she is a woman.
 - Allocate sufficient budgetary resources to support the implementation of public policies and prevention plans, the treatment, punishment and eradication of the phenomenon of disappeared women. Create mechanisms that allow transparency about the proportion of the budget allocated to these issues.
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