



UNIVERSITY of HAWAII at MANOA
WILLIAM S. RICHARDSON
SCHOOL OF LAW

UN Special Procedure and Working Group on Enforced or Involuntary Disappearances (WGEID)

Tae-Ung Baik

Associate Professor of law; Director, SJD Program
Member, Working Group on Enforced or Involuntary Disappearances
Office of the United Nations High Commissioner for Human Rights

William S. Richardson School of Law, University of Hawaii at Manoa
2515 Dole Street, Room. 245, Honolulu, HI 96822, USA,
Email: tubaik@hawaii.edu; Tel: (808) 956-7838



The United Nations System

UN Principal Organs

- General Assembly
- Security Council
- Economic and Social Council
- Secretariat
- International Court of Justice
- Trusteeship Council⁶

Subsidiary Bodies
Main and other sessional committees
Disarmament Commission
Human Rights Council
International Law Commission
Standing committees and ad hoc bodies

Funds and Programmes¹
UNCTAD United Nations Conference on Trade and Development
 • **ITC** International Trade Centre (UNCTAD/WTO)
UNDP United Nations Development Programme
 • **UNCDF** United Nations Capital Development Fund
 • **UNV** United Nations Volunteers
UNEP United Nations Environment Programme
UNFPA United Nations Population Fund

Subsidiary Bodies
Counter-terrorism committees
International Criminal Tribunal for Rwanda (ICTR)
International Criminal Tribunal for the former Yugoslavia (ICTY)

Advisory Subsidiary Body
Peacebuilding Commission

Military Staff Committee
Peacekeeping operations and political missions
Sanctions committees (ad hoc)
Standing committees and ad hoc bodies

Functional Commissions
Crime Prevention and Criminal Justice
Narcotic Drugs
Population and Development
Science and Technology for Development
Social Development
Statistics
Status of Women
Sustainable Development
United Nations Forum on Forests

Regional Commissions
ECA Economic Commission for Africa
ECE Economic Commission for Europe
ECLAC Economic Commission for Latin America and the Caribbean
ESCAP Economic and Social Commission for Asia and the Pacific
ESCWA Economic and Social Commission for Western Asia

Other Bodies
Committee for Development Policy
Committee of Experts on Public Administration
Committee on Non-Governmental Organizations
Permanent Forum on Indigenous Issues
United Nations Group of Experts on Geographical Names
Other sessional and standing committees and expert, ad hoc and related bodies

Departments and Offices
EOSG Executive Office of the Secretary-General
DESA Department of Economic and Social Affairs
DFS Department of Field Support
DGACM Department for General Assembly and Conference Management
DM Department of Management
DPA Department of Political Affairs
DPI Department of Public Information
DPKO Department of Peacekeeping Operations
DSS Department of Safety and Security
OCHA Office for the Coordination of Humanitarian Affairs
OHCHR Office of the United Nations High Commissioner for Human Rights

UN-HABITAT United Nations Human Settlements Programme
UNHCR Office of the United Nations High Commissioner for Refugees
UNICEF United Nations Children's Fund
UNODC United Nations Office on Drugs and Crime
UNRWA² United Nations Relief and Works Agency for Palestine Refugees in the Near East
UN-Women United Nations Entity for Gender Equality and the Empowerment of Women
WFP World Food Programme
UNITAR United Nations Institute for Training and Research
UNRISD United Nations Research Institute for Social Development
UNSSC United Nations System Staff College
UNU United Nations University

Other Entities
UNAIDS Joint United Nations Programme on HIV/AIDS
UNISDR United Nations International Strategy for Disaster Reduction
UNOPS United Nations Office for Project Services

Research and Training Institutes
UNICRI United Nations Interregional Crime and Justice Research Institute
UNIDIR² United Nations Institute for Disarmament Research

Related Organizations
CTBTO Preparatory Commission Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization
IAEA^{1,3} International Atomic Energy Agency
OPCW Organisation for the Prohibition of Chemical Weapons
WTO^{1,4} World Trade Organization

Specialized Agencies^{1,5}
FAO Food and Agriculture Organization of the United Nations
ICAO International Civil Aviation Organization
IFAD International Fund for Agricultural Development
ILO International Labour Organization
IMF International Monetary Fund
IMO International Maritime Organization
ITU International Telecommunication Union
UNESCO United Nations Educational, Scientific and Cultural Organization
UNIDO United Nations Industrial Development Organization
UNWTO World Tourism Organization
UPU Universal Postal Union
WHO World Health Organization
WIPO World Intellectual Property Organization
WMO World Meteorological Organization

World Bank Group
 • **IBRD** International Bank for Reconstruction and Development
 • **ICSID** International Centre for Settlement of Investment Disputes
 • **IDA** International Development Association
 • **IFC** International Finance Corporation
 • **MIGA** Multilateral Investment Guarantee Agency

Notes:
¹ The United Nations, its Funds and Programmes, the Specialized Agencies, IAEA and WTO are all members of the United Nations System Chief Executives Board for Coordination (CEB).
² UNRWA and UNIDIR report only to the General Assembly (GA).
³ IAEA reports to the Security Council and the GA.
⁴ WTO has no reporting obligation to the GA, but contributes on an ad hoc basis to GA and Economic and Social Council (ECOSOC) work on, inter alia, finance and development issues.
⁵ Specialized Agencies are autonomous organizations whose work is coordinated through ECOSOC (intergovernmental level) and CEB (inter-secretarial level).
⁶ The Trusteeship Council suspended operation on 1 November 1994, as on 1 October 1994 Palau, the last United Nations Trust Territory, became independent.
 This is not an official document of the United Nations, nor is it intended to be all inclusive.



The UN Charter-based Mechanism

- Human Rights Council
 - Established on March 15, 2006
cf. GA Res 60/251 (2006) (p.695-96)
- Universal Periodic Review
- Special Procedures
- Complaint Procedure
- Advisory Committee
- Office of High Commissioner for Human Rights (OHCHR)
 - Zeid Ra'ad Al Hussein



UN HRC Special Procedures

- Independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.
- A central element of the United Nations human rights machinery and covers all rights: civil, cultural, economic, political, and social.
- As of 1 January 2016, there are 55 Special Procedures (41 thematic mandates and 14 mandates relating to countries or territories) with currently 79 mandate-holders.



Special Procedures—Country mandates

(As of 1 August 2016)

Title / Mandate
Special Rapporteur on the situation of human rights in Belarus
Special Rapporteur on the situation of human rights in Cambodia
Independent Expert on the situation of human rights in Central African Republic
Independent Expert on the situation of human rights in Côte d'Ivoire
Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea
Special Rapporteur on the situation of human rights in Eritrea
Independent Expert on the situation of human rights in Haiti
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran
Independent Expert on the situation of human rights in Mali
Special Rapporteur on the situation of human rights in Myanmar
Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967
Independent Expert on the situation of human rights in Somalia
Independent Expert on the situation of human rights in the Sudan
Special Rapporteur on the situation of human rights in the Syrian Arab Republic

Special Procedures- Thematic Mandates

- adequate housing
- African descent
- Arbitrary Detention
- sale of children
- right to education
- Enforced or Involuntary Disappearances
- Extrajudicial, summary or arbitrary executions
- extreme poverty
- right to food
- freedom of opinion and expression
- freedom of religion or belief
- right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- human rights defenders
- ☞ impunity
- ☞ independence of judges and lawyers
- ☞ indigenous people
- ☞ internally displaced persons
- ☞ use of mercenaries
- ☞ human rights of migrants
- ☞ contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- ☞ structural adjustment policies and foreign debt
- ☞ Protection of human rights and fundamental freedoms while countering terrorism
- ☞ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- ☞ Trafficking in persons



Working Group on Enforced or Involuntary Disappearances (WGEID)

- ❑ WGEID was established by Commission on Human Rights resolution 20 (XXXVI) of 29 February 1980.
- ❑ Declaration on the Protection of all Persons from Enforced Disappearances, 1992
- ❑ Methods of Work (A/HRC/WGEID/102/2)





Definition of Enforced Disappearances

“Enforced disappearances occur when persons are arrested, detained or abducted against their will or otherwise deprived of their liberty **by officials of different branches or levels of Government or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of, the Government,** followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.”

(Methods of work of the Working Group on Enforced or Involuntary Disappearances, A/HRC/WGEID/102/2)



Constituent Elements of Enforced Disappearances

1. by officials of different branches or levels of Government or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of, the Government,
2. persons are arrested, detained or abducted against their will or otherwise deprived of their liberty,
3. followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.



Challenges of Non-state Actors

- Enforced disappearances by terrorists or rebel groups
- Enforced disappearances by other non-state actors

Mandate of WGEID

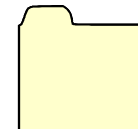
- assists families in determining the fate or whereabouts of their disappeared relatives who are placed outside the protection of the law;
- endeavours to establish a channel of communication between the families and the States concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases that families have, directly or indirectly, brought to the attention of the Working Group are investigated with a view to clarifying the fate or whereabouts of the disappeared persons.



Requirements for consideration of cases

- ❑ Full name of the disappeared person
- ❑ Date of disappearance
- ❑ Place of deprivation of liberty or where the disappeared person was last seen
- ❑ State agents or other parties believed to be responsible for the deprivation of liberty
- ❑ Steps taken
- ❑ Reliable source (efforts to get victims consent)

- ❑ Cf. communication form





Methods of Work- Procedure

- Urgent procedure:
 - ED occurred within three months.

- Standard procedure:
 - ED reported after three months



Methods of Work- Handling of cases

- Clarification of cases,
- Archiving of cases,
- Discontinuation of cases,
- Reopening of cases
- [Six-month rule]



Methods of Work-

Other protection mechanisms

- Urgent appeals,
- Prompt interventions,
- General allegations,
- Other communications,
- Follow-up on communications



Methods of Work- Country Visits

- Carries out visits to countries on invitation:
 - Ex: Sri Lanka, Peru, Turkey etc.
- To enhance the dialogue between the authorities most directly concerned, the families or their representatives and the Working Group; and to assist in the clarification of the reported cases of enforced disappearance.
- To examine the practices carried out by States to prevent, investigate, punish and eradicate enforced disappearances, as well as the programmes and measures adopted to implement the Declaration and to guarantee the rights of, among others, the victims.
- To report to UN HRC, UN GA, and Cooperate with other experts
- Cf. Regular session in the region: the 111th session in Seoul, 2017

WGEID Country Visit: Sri Lanka

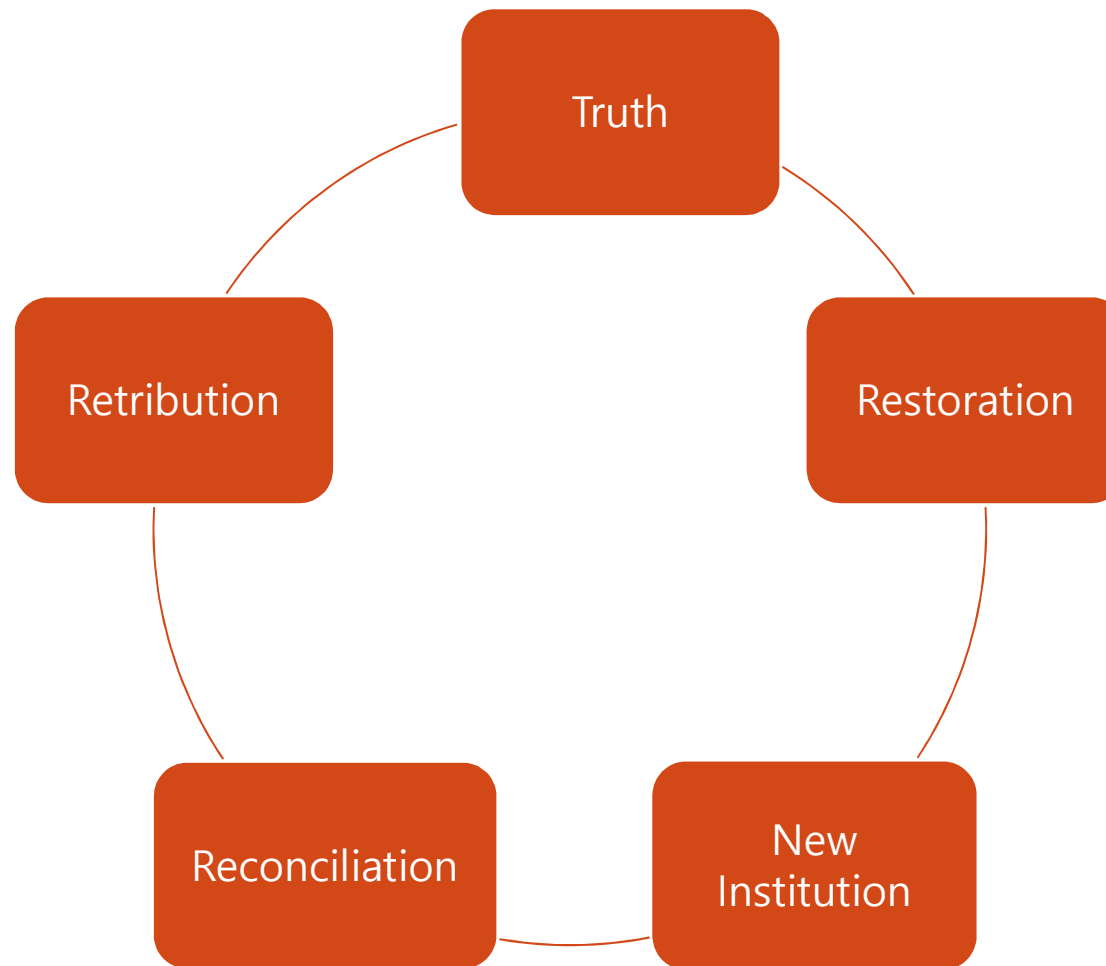
November 9, 2015- November 19, 2015

- Three members of the Working Group:
 - Meetings with the Government
 - Meetings with the Families, Civil Society Organizations, etc
 - Visits to Detention Facilities
 - Press briefing and issuing a preliminary observation

Transitional justice

“The principles and mechanisms which can guarantee justice during a transition from an authoritarian regime or internal conflicts to democratic rule.”

Elements of Transitional Justice





Cooperation between UN SPs and CSOs, RHRMs, HRDs

- UN Special Procedure mechanisms cannot sustain without cooperation with CSOs, RHRMs, and HRDs.
- Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards. In some cases, communications are also sent to inter-governmental organizations or non-State actors.
- "Online submission to special procedures"



Cooperation between WGEID and CSOs, RHRMs, HRDs

- WGEID awaits broader cooperation with CSOs, RHRMs, HRDs :
 - Report of ED cases
 - Urgent procedure
 - Standard procedure
 - Urgent appeal
 - General Allegation
 - Other communication
 - Country visit
 - Report to the UN HRC, Follow-up report



Cooperation between WGEID and CSOs, RHRMs, HRDs

- Information sharing through various means
 - Develop modes of cooperation
 - Participate in meetings during the regular sessions
 - Side-events
- Country visits
 - Preparation
 - Actual visits
 - Reporting & Follow-ups
- Consultation sessions
- Regional sessions- another opportunity
- Joint press release
 - PR with CED, other UN mandate-holders, Inter-American Commission on Human Rights and other regional bodies, etc.



Cooperation between UNHRC SP and Regional Organizations in Asia

- New regional human rights systems in ASEAN
 - ASEAN Intergovernmental Commission on Human Rights;
 - ASEAN Commission on the Rights of Women and Children;
 - ASEAN Committee on Migrant Workers
- ASEAN, SAARC, PIF, EAS

- Active cooperation to address human rights violation including ED
- Cooperation to facilitate active regional organizations with human rights values

- Building strong human rights norms (convention) and HR mechanisms in Asia



Thank you!

Tae-Ung Baik

Associate Professor of law; Director, SJD Program
Member, Working Group on Enforced or Involuntary Disappearances
Office of the United Nations High Commissioner for Human Rights
William S. Richardson School of Law, University of Hawaii at Manoa
2515 Dole Street, Room. 245, Honolulu, HI 96822, USA,
Email: tubaik@hawaii.edu; Tel: (808) 956-7838