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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

Report of the Working Group on Enforced or Involuntary Disappearances

Addendum

MISSION TO HONDURAS: PRELIMINARY NOTE

31 January to 2 February 2007

Preliminary note

1. The Working Group on Enforced or Involuntary Disappearances organized its first mission to Honduras from 31 January to 2 February 2007. The main purpose of this mission was to gather information which might serve as a basis for clarifying as many as possible of the cases which are still pending in its files.

2. Since its establishment, the Working Group has received for consideration 202 cases of enforced disappearance in Honduras, dating principally from 1981-1984. The Working Group still has 125 cases pending clarification as to the whereabouts or fate of the victims in these cases.

3. During the mission the Working Group held interviews with representatives of the National Human Rights Commissioner, the Ministry of Security, the Office of the Attorney-General, the Supreme Court, including the Constitutional Court, the Congress's Human Rights Commission, the Ministry of the Interior and Justice and the Ministry of Foreign Affairs.

4. The Working Group expressed its deep appreciation for the considerable support provided by the Government of Honduras in order to ensure the success of the mission, and noted with great satisfaction and gratitude the warm and open atmosphere in which the interviews took place. The Group was able to note a constructive attitude on the part of public officials towards the task of devising legal machinery and public policies aimed at clarifying the cases of enforced disappearance dating from the 1980s, and implementing a policy of respect for human rights in general.

5. The Working Group also interviewed members of various organizations representing civil society and the relatives of victims of enforced disappearance, with whom it held an open and objective dialogue. In order to obtain a balanced picture, the Working Group considers it essential to hold information-gathering meetings with both official and civil society sources, especially those concentrating on the search for victims of enforced disappearance.

6. Regarding the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance ("the Declaration") by the State of Honduras, the Working Group expressed the following views:

(a) Honduran criminal law does not specify that the enforced disappearance of persons is a separate offence, as required by the Declaration and the Inter-American Convention on Forced Disappearance of Persons, to which Honduras is a party. The Working Group urged the Honduran legislature to take the necessary steps to overcome this shortcoming in its criminal law. In this regard, the Working Group pointed out that the definition should reflect the continuing or ongoing nature of the offence, so that it could be applied to enforced disappearances whose perpetration had begun even before the entry into force of the provision defining the offence, thus avoiding a breach of the principle of non-retroactivity of the criminal law at the expense of the alleged perpetrator;

(b) Although the Constitution does not allow the adoption of amnesty laws for State crimes such as enforced disappearance, the Working Group was concerned at the existence of certain similar measures in Honduras which result in a de facto amnesty for persons responsible

for serious violations of human rights, including enforced disappearances. The Working Group was informed that the alleged perpetrators of serious violations of human rights, including disappearances, are not only at large, but in addition are not the subject of any effective investigation, still less any conviction by a court. What is more, according to reliable reports, some of the alleged perpetrators of enforced disappearance are still active, and in some cases occupy senior political posts, a situation contrary to article 16.1 of the Declaration;

(c) In connection with the above, the Working Group was informed that to date no arrest warrants have been issued in the cases of enforced disappearance which the Working Group still has pending in its files, a situation contrary to article 13, paragraph 6, of the Declaration;

(d) The Working Group pointed out to the Government of Honduras that, under article 5 of the Declaration, in addition to the applicable criminal penalties, the alleged perpetrators of enforced disappearances bear general civil liability, that is, they must compensate the victims for harm caused and must suffer administrative disqualification, in accordance with article 16, paragraph 1, of the Declaration. That is the case without prejudice to the international responsibility which Honduras bears in accordance with the principles of international law, in the light of the above-mentioned article 5 of the Declaration;

(e) The Working Group found that the Government of Honduras is engaged in praiseworthy efforts to search for disappeared persons, although it has no comprehensive plan or programme in that regard. Such a plan should include the participation of organized civil society, particularly the relatives and loved ones of the disappeared persons, in keeping with article 13, paragraphs 1 and 4, and should preferably be endorsed by the legislature;

(f) The Working Group noted the praiseworthy efforts of the Government of Honduras to ensure respect for the right of the relatives of victims of enforced disappearances to fair and adequate reparation. However, the Working Group considered that, in the context of the comprehensive search programme suggested in the previous paragraph, a programme of comprehensive redress should be implemented which, in keeping with article 19 of the Declaration, should include adequate compensation and other reparation such as the fullest possible rehabilitation, in full respect for the right to justice and truth.

7. The Working Group urged the governmental and non-governmental bodies to establish cooperative links with a view to solving the problems related to cases of enforced disappearance which have not yet been clarified. It also recommended that the organizations of relatives of disappeared persons and other human rights organizations should maintain close links and coordination so as to strengthen their activities and ensure the achievement of their objectives.

8. The above-mentioned issues and some others arising from the information-gathering activities during this mission, as well as a series of recommendations and observations, will be elaborated on in detail in the report to be drawn up by the Working Group following its mission to Honduras.
