**Submission to the Committee on Enforced Disappearances on the draft document on the Committee’s relationship with civil society actors**

*ISHR welcomes the opportunity to comment on the draft text developed by the Committee on Enforced Disappearances on its relationship with civil society actors. This submission is also endorsed by Child Rights Connect, Center for Legal and Social Studies (CELS), Al-Karama, FIACAT, and the International Movement Against All Forms of Discrimination and Racism, (IMADR).*

The Committee’s recognition that ‘civil society has a key role to play in assisting it in discharging its mandate effectively’ is a welcome acknowledgement of the importance of the contribution of civil society to the work of the treaty bodies.

The draft document identifies a series of areas in which civil society is strongly encouraged to participate in the Committee’s work, including assisting victims of enforced disappearance to submit complaints, submitting alternative reports for State reviews, translating the Committee’s documents into local languages, and organising trainings to raise awareness of the International Convention for the Protection of All Persons from Enforced Disappearance.

While this range of activities demonstrates that the Committee recognises the potential of civil society to assist it in carrying out its mandate, we note that the purpose of the document is set out as ‘to clarify and further develop the Committee’s relationship with civil society actors and to enhance their contribution in the implementation of the Convention at the domestic level’ [paragraph 3].

Enhancing the contribution of civil society demands that the Committee not only undertake to use the inputs coming from civil society and encourage more active outreach by civil society about the Committee and the Convention, but also that the Committee undertakes to facilitate the activities of civil society as far as possible.

The draft does include some steps that the Committee plans to undertake to facilitate the participation of civil society. We welcome for example the Committee’s recognition of the need for civil society to have advance notice of reporting schedules, in order that it can plan its input [paragraph 9], the encouragement of the use of technology to facilitate participation [paragraph 24], and the note that Committee members are ready to consider participating in awareness-raising activities organised by civil society [paragraph 27].

There is more however that the Committee could undertake to do to facilitate civil society’s engagement and participation, and develop a mutually reinforcing and sustainable relationship. These ideas are set out below, together with suggested draft text (in italics).

We would be happy to meet relevant Committee members to discuss these suggestions in person.

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# There is a need for regular interaction with civil society throughout the course of a session

The draft refers to a formal meeting held with civil society during the Committee’s session [paragraph 3]. Regular interaction between the Committee and civil society during the Committee’s sessions is crucial. Briefings of the kind mentioned here are essential to that interaction.

We are pleased that at its last session in April 2013 the Committee scheduled a two-hour civil society briefing dedicating an hour to each of the two countries under review.

While this is a welcome start, it is also important that these briefings are held in close proximity to State reviews, to limit the amount of time that those who have travelled to Geneva must stay in order to attend both the NGO briefing and the State review. As an example of best practice in this regard, the Committee Against Torture currently holds private NGO briefings for each country under review the day before the review is scheduled, for an hour at a time.

To take into account the possible increased number of reviews carried out at future sessions the Committee should commit to a principle of regular interaction in this document:

*The Committee will ensure that NGO briefings are held regularly throughout the session and that those briefings are held in close proximity to State reviews.*

# Formal meetings with NGOs must be held in closed session as a precaution against reprisals or intimidation

We welcome the Committee’s specification that formal meetings with NGOs will be held in closed session [paragraph 3]. This commitment is important to ensure that NGOs feel safe to engage with members candidly without the presence of the State party or other observers. For NGOs who have experienced threats of reprisals or intimidation or who have actually suffered attacks often condoned by or actively promoted by the State, the presence of State representatives during the NGO meetings either endangers the NGO representatives, or lessens the likelihood NGOs will participate in the meeting and provide crucial information. Good practice by other treaty bodies on ensuring confidentiality of the meetings with NGOs should be considered.

It would, however, be useful to explicitly capture in the text the rationale behind holding closed meetings by adding a phrase to the effect that:

*This ensures that NGOs who may be vulnerable to reprisals or intimidation are able to engage effectively with the Committee.*

# Informal meetings with NGOs will be held throughout the session

The draft also refers to ‘additional opportunities for civil society actors to provide the Committee with detailed information during informal briefings’ [paragraph 3]. There is great added value in making room for these informal briefings organised by civil society, and we welcome the reference to them here. These informal briefings are obviously not a substitute for regular and formal interaction with civil society. However they provide additional time for civil society to interact with the Committee, and the less structured format enables a more detailed discussion between Committee members and NGOs about issues raised in the formal sessions. Many treaty bodies, the Human Rights Committee being just one example, make very good use of these informal briefings to delve deeper into certain issues. In addition, in cases where the technology is not available for NGOs to participate remotely in formal sessions, these informal briefings are often used to connect with NGOs outside Geneva via Skype, very often grassroots NGOs.

*The Committee recognises the added value of informal briefings with civil society, alongside the formal briefings, and encourages civil society to organise such meetings regularly throughout the session and to ensure a broad participation of civil society, in particular from NGOs who cannot attend the session in person.*

# The Committee must condemn reprisals against human rights defenders

We welcome the Committee’s recognition that civil society is vulnerable to reprisals [paragraph 22] when it engages in any aspect of the Committee’s work.

The Committee’s lack of tolerance for reprisals should be clearly spelled out in the text. The Committee could include its own language from paragraph 48 of its working methods condemning reprisals:

*The Committee recognises that it cannot carry out its mandate unless it receives information and assistance from NGOs as outlined in this document. As NGO engagement with the Committee is crucial to the effective fulfilment of its mandate, it is fully within the Committee’s mandate, and should be carried out as part of fulfilling that mandate, to ensure that NGOs can engage with the Committee as safely as possible. This could include, for instance, and option for NGO reports submitted to remain confidential so as to protect the authors, or ensuring an explicit request of online publication for NGO information submitted.*

*The Committee condemns all acts of intimidation, persecution or reprisal against any individual who has sought to address and/or cooperate, or has addressed and/or cooperated, with the Committee by submitting information in relation to the State parties reporting procedure, urgent actions, individual communications, information relevant to violations of the Convention or for having met the Committee during its country visits.*

# The Committee must put in place a process of responding to allegations of reprisals

We further welcome the recognition of the need for civil society to report alleged cases of reprisals to the Committee [paragraph 22]. To facilitate reporting the Committee should appoint a focal point on reprisals, as the Committee Against Torture has done, and ensure his or her details are clearly available on the Committee’s website and communicated to NGOs engaging with the Committee.

In paragraph 48 of its working methods the Committee also notes that in cases of alleged reprisals being reported to it ‘The Committee may take appropriate action’. It is important that those suffering and/or reporting reprisals and intimidation a have confidence that the Committee will indeed take appropriate action. To this extent it would be useful to develop a process for responding to the cases received and to set that out in this document.

This paragraph could read as follows:

*The Committee has appointed a focal point on reprisals, whose details can be found on the Committee’s website. Any member of civil society who fears or who has experienced a reprisal or intimidation or is aware of any other individual or group similarly fearful or affected by reprisals or intimidation should notify the focal point.*

*All allegations of reprisal or intimidation notified to the Committee will be followed up with the State concerned, with a request for action to protect the persons affected. The State party will be required to inform the Committee of the steps it has taken in response to that request for action.*

*Where relevant, the Committee will also require States parties to report back on reprisals cases together with concluding observations requiring more urgent follow-up. The Committee will ensure that any follow-up, including with delegations, does not place the complainant in further danger.*

# The Committee should develop transparent guidelines detailing the procedures followed in the development of general comments

We welcome the Committee’s recognition of the need to ensure civil society input both to the drafting and the use of the Committee’s general comments, as well as the Committee’s commitment to announcing as soon as possible the general comments it would consider or the days of general discussion it intends to organise [paragraph 23]. It is also important that civil society is involved at the outset in the process of selecting the theme of the general comments.

To ensure greater participation from civil society it would also be important to develop and adopt guidelines detailing the procedures followed in the development of general comments, including the role of the general discussions days in the overall process, where the two processes may be linked.

*The Committee will develop guidelines detailing the procedures followed in the development of general comments and ensure that those guidelines are clearly publicised. The guidelines will set out that consultations will be taken with civil society at all stages of the process, including allowing civil society to make suggestions about the selection of themes and the submission of preliminary observations as well as comments on the final draft of general comments. This will not undermine the independent role of the treaty bodies which are able to take stakeholders’ comments into account but are in no way bound by them.*

# The Committee should commit to exploring with OHCHR how technology can facilitate participation in the Committee’s work for those unable to attend sessions in Geneva

We welcome the Committee’s encouragement of the use of technology to increase participation from NGOs who are limited in their capacity to attend sessions [paragraph 24].

Webcasting is important to open up the sessions to those unable to attend and the video recordings of the sessions can form a crucial part of follow-up by civil society with the State. It is important that the webcasts are archived and searchable. The archiving is currently undertaken by the group of civil society actors whose work in webcasting the sessions is acknowledged in the draft document.

Videoconferencing, which the Committee benefitted from during its review of Uruguay, also enables the Committee to benefit from NGO inputs when representatives do not have the resources to be physically present at the review.

Ultimately, however, it is OHCHR’s responsibility to put these options in place, and it would be helpful to recognise this in the document.

*The Committee will explore with OHCHR how technology can be further integrated to enhance accessibility and the capacity of civil society to contribute to the Committee’s work.*

# The Committee should ensure that it complies with all accessibility standards

Any and all methods of participating in and accessing the Committee’s work, be it through attending sessions, using the Committee’s website, following proceedings via webcast, or participating via videoconferencing, must be accessible to everyone including persons with disabilities.

*In line with the Convention on the Rights of Persons with Disabilities, the practices and working methods of the Committee will comply with all relevant accessibility standards, including in relation to access to premises and modes of communication.*