

116TH CONGRESS
2^D SESSION

H. RES. 1231

Calling for an end to enforced disappearances in Asia and around the world, and calling upon the United States to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2020

Mr. SHERMAN (for himself and Mr. RASKIN) submitted the following resolution; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Calling for an end to enforced disappearances in Asia and around the world, and calling upon the United States to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Whereas enforced disappearances constitute grave human rights violations and are a crime under international law;

Whereas the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) was adopted by the United Nations General Assembly on December 20, 2006, and entered into force on December 23, 2010;

Whereas Article 2 of the ICPPED defines enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person”;

Whereas, since its creation in 1980, the United Nations Working Group on Involuntary Enforced Disappearances brought up 57,891 cases to the attention of 108 states, and 45,811 cases remain unresolved;

Whereas the fate and whereabouts of hundreds of thousands of victims of enforced disappearances around the world continue to be unknown even decades after the end of conflict and repressive regimes;

Whereas the failure to clarify the fate and whereabouts of those forcibly disappeared causes continuing pain and suffering to survivors and victims, and hinders societal reconciliation and justice;

Whereas clarifying the fate of those who have been forcibly disappeared is an essential measure of transitional justice, alongside criminal accountability, truth-telling initiatives, and reparations, all of which assist societies in addressing legacies of mass atrocities, ensuring accountability, and preventing the recurrence of conflict and atrocities;

Whereas under the International Convention on Disappearances, every victim has the right to know the truth regarding the circumstances of the enforced disappearance,

the progress and results of the investigation, and the fate of the disappeared person;

Whereas relatives of victims of enforced disappearances and members of civil society often face reprisals for seeking information and justice, and such reprisals are often carried out under the pretext of security and counterterrorism measures;

Whereas the United Nations Committee on the Elimination of Racial Discrimination was alarmed by the numerous reports about arbitrary detention of possibly a million Uyghurs and Muslim minorities;

Whereas most Uyghur detainees are held without or on unknown charges in several facilities in the Xinjiang Uyghur Autonomous Region, and the whereabouts and physical condition of many remain unknown;

Whereas with the passage into law of the Uyghur Human Rights Policy Act of 2020 (Public Law 116–145), it is the policy of the United States to condemn the mass arbitrary detention of Uyghurs and members of other Muslim minority groups in Xinjiang and sanction those responsible for causing the disappearances of persons and the prolonged detention of those persons without charges and trial;

Whereas according to Amnesty International, Sri Lanka is home to one of the world's highest number of enforced disappearances, with somewhere between 60,000 to 100,000 people allegedly disappeared since the late 1980s;

Whereas, during the 26-year civil war ending in 2009 between government forces and the Liberation Tigers of Tamil Eelam, tens of thousands of Tamils were forcibly

disappeared by the police, military, and paramilitary operatives;

Whereas the United Nations Working Group on Enforced or Involuntary Disappearances stated in 2020 that the second-largest number of unresolved enforced disappearance cases in the world before the Working Group involves Sri Lanka, with the Working Group having transmitted communications to the Sri Lankan Government relating to over 12,700 disappearance cases, of which 6,117 were still outstanding, and that Sri Lankan state authorities, “have not replied in regard to any cases”;

Whereas in 2016 the Sri Lankan Government acknowledged having received at least 65,000 complaints of enforced disappearances since 1995;

Whereas Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance in May 2016, and passed domestic legislation criminalizing enforced disappearances in March 2018;

Whereas, according to a 2020 United Nations Special Rapporteur’s report, “no observable progress has been made on pending cases, including habeas corpus applications into the disappearance of Tamil Tigers and members of their families who surrendered during the final days of the war”;

Whereas, in January 2020, President Gotabaya Rajapaksa stated that “missing persons are actually dead”, without providing any evidence;

Whereas lawyers, human rights defenders, and victims involved in cases of enforced disappearances face intimidation, harassment, and violence from state and private actors, particularly since Rajapaksa became President;

Whereas the Government of Sri Lanka has promoted high-ranking military officials suspected of forcibly disappearing persons and bearing responsibility for war crimes, including Lieutenant General Shavendra Silva, and has failed to hold accountable other current military officials accused of war crimes;

Whereas, since January 2020, the practice by the former government of issuing interim relief to families of the disappeared, as recommended by the Office on Missing Persons, was discontinued, putting families of disappeared persons under further financial strain;

Whereas the Rajapaksa government has said it will no longer comply with the United Nations Human Rights Council Resolution 30/1, supported by the United States, committing Sri Lanka to truth, justice, and accountability for violations of human rights;

Whereas Sri Lankan authorities are failing to effectively investigate and, where there is sufficient evidence, prosecute those suspected of perpetrating enforced disappearances, as recommended by the United Nations Working Group on Enforced or Involuntary Disappearances;

Whereas Tamil families of the disappeared have demonstrated tremendous courage in conducting continuing protests, lasting over 1,300 days, to demand answers from the Sri Lankan state, despite being met with threats, intimidation, and harassment by state security forces;

Whereas the Prevention of Terrorism Act, a law that has been misused to facilitate enforced disappearances, remains in use, despite the former government's pledges to repeal it;

Whereas under the Government of former President Suharto, from 1967 to 1998, countless Indonesians were victims of enforced disappearances conducted by the military, police, intelligence agencies, and other state authorities;

Whereas rather than investigate and hold those responsible for enforced disappearances to account, the Indonesian Government has appointed former generals allegedly involved in kidnappings and enforced disappearances to senior posts in the Defense Ministry;

Whereas, during Indonesia's occupation of East Timor from 1975 to 1999, around 18,600 people were forcibly disappeared, as documented by the independent Commission for Reception, Truth and Reconciliation (CAVR) in its 2005 report;

Whereas, in 2010, Indonesia signed the International Convention for the Protection of All Persons from Enforced Disappearance signaling its recognition of its obligation to investigate ongoing disappearances; however, it has yet to ratify the convention;

Whereas the United Nations Working Group on Enforced or Involuntary Disappearances has received 1,144 cases of allegations of enforced disappearances from Pakistan between 1980 and 2019;

Whereas, in 2011, Pakistan established the Commission of Inquiry on Enforced Disappearances (COIED) to "trace the whereabouts of allegedly enforced disappeared persons" and "fix responsibility on individuals or organizations responsible";

Whereas, since 2011, Pakistan's COIED has received more than 5,290 reported cases of enforced disappearances carried out by state officials;

Whereas the majority of the victims of enforced disappearances in Pakistan are Baloch, Pashtun, or Sindhi;

Whereas the Government of Pakistan has not adequately investigated and held perpetrators of enforced disappearances responsible;

Whereas the United Nations Working Group on Enforced or Involuntary Disappearance has described a “culture of entrenched impunity” regarding the practice of enforced disappearances in Pakistan;

Whereas the whereabouts and fate of over 2,000 victims of enforced disappearances of citizens (Sindhis) of Sindh Province, Pakistan, remain unsolved, including those of—

(1) Aqib Chandio, 20, a student, abducted for the second time on July 7, 2020;

(2) Gulam Rasul Shar and Bashir Ahmed Shar, brothers, abducted in Karachi on August 16, 2020;

(3) Mehran Ali Mirani, 18, a student and shopkeeper, violently abducted in Hyderabad, Sindh, on January 13, 2020; and

(4) Insaf Ali Dayo, a young tailor, abducted from his shop in Larkana, Sindh, by a group that included uniformed military personnel on May 29, 2017;

Whereas disappeared people who have been released have received threats, or threats to their family members, to prevent them from recounting their experience to media or seeking justice;

Whereas Amnesty International and other internationally recognized human rights organizations have called upon the Government of Pakistan to end enforced disappearances against all individuals, including Sindhis, and to either immediately release the victims of enforced disappearance

or ensure that they are brought promptly before a judge in a civilian court to rule on the lawfulness of their arrest or detention; and

Whereas according to the United Nations, states have a duty to strengthen their efforts, with the support of international human rights mechanisms, to prevent enforced disappearances, to search for victims, and to increase assistance to victims and their relatives: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) calls for justice for victims of enforced dis-
3 appearances and accountability for those bearing re-
4 sponsibility for these crimes;

5 (2) calls for United States law enforcement to
6 use all available legal and statutory tools to ensure
7 that alleged perpetrators of enforced disappearances
8 are held accountable in United States courts and to
9 ensure that the United States is not a safe haven for
10 human rights violators;

11 (3) urges all countries to abandon the unlawful
12 practice of enforced disappearances;

13 (4) calls upon the Department of State and the
14 United States Agency for International Development
15 to continue to support transitional justice measures
16 and initiatives to assist victims and survivors of en-
17 forced disappearances, including by supporting na-

1 tional, international, and hybrid mechanisms to clar-
2 ify the fate and whereabouts of the disappeared;

3 (5) urges the United States to sign and ratify
4 the International Convention for the Protection of
5 All Persons from Enforced Disappearance;

6 (6) calls upon the Government of China to—

7 (A) immediately release all persons held in
8 arbitrary detention in Xinjiang, unless there is
9 sufficient credible and admissible evidence that
10 they have committed an internationally recog-
11 nized offense;

12 (B) repeal or amend all laws and regula-
13 tions, and end all related measures, that
14 impermissibly restrict the exercise of human
15 rights by Uyghurs and other ethnic minorities;
16 and

17 (C) allow independent and unrestricted ac-
18 cess to Xinjiang for independent human rights
19 monitors, and make the whereabouts and condi-
20 tion of all detainees known to their families;

21 (7) calls upon the Government of Sri Lanka
22 to—

23 (A) carry out effective and independent in-
24 vestigations with a view of swiftly bringing to

1 justice those responsible for enforced disappear-
2 ances;

3 (B) recommit the Government to com-
4 plying with the transitional justice goals and
5 framework as articulated in the United Nations
6 Human Rights Council Resolution 30/1, and
7 implement measures to establish the transi-
8 tional justice mechanisms outlined in the reso-
9 lution;

10 (C) end the threats and intimidation
11 against families of the disappeared, journalists,
12 human rights defenders, and lawyers engaged
13 in cases of enforced disappearances;

14 (D) consult with victims and families of
15 the disappeared, release lists of those detained
16 since 1978 under the Prevention of Terrorism
17 Act, and investigate and release a list of all se-
18 cret detention centers;

19 (E) resume the practice of issuing interim
20 relief to families of the disappeared, as rec-
21 ommended by the Office on Missing Persons;

22 (F) repeal the Prevention of Terrorism Act
23 and stop the misuse of laws, including the
24 International Covenant on Civil and Political

1 Rights, to threaten, harass and prosecute dis-
2 senters, journalists and activists; and

3 (G) work with the United States Govern-
4 ment to pursue those responsible for atrocity
5 crimes and ensuring that the fate of all of those
6 disappeared is determined;

7 (8) calls upon the Government of Indonesia
8 to—

9 (A) fulfill the Government's obligations
10 under international law;

11 (B) ensure that the military institution co-
12 operates with human rights and justice sector
13 institutions, including the Human Rights Com-
14 mission;

15 (C) establish ad hoc human rights courts
16 for enforced disappearances in 1997–1998 and
17 prosecute those responsible for enforced dis-
18 appearances and other atrocities in Indonesia;
19 and

20 (D) ratify the signed Convention for the
21 Protection of All Persons from Enforced Dis-
22 appearance; and

23 (9) calls upon the Government of Pakistan to—

1 (A) swiftly release all citizens of Pakistan
2 who have been arbitrarily abducted and de-
3 tained;

4 (B) condemn the enforced disappearance of
5 Sindhis, of any religion or association, in Sindh
6 Province;

7 (C) work to ensure any actions taken in
8 pursuit of legitimate security threats respect
9 the human rights of all people and adhere to
10 international human rights law; and

11 (D) criminalize the practice of enforced
12 disappearances.

○