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The Search for the Forcibly Disappeared: A Key Contribution to Peacebuilding

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I would like to sincerely thank the GPP for the organisation of this important event, which is also organized as a follow-up to the World Congress on Enforced Disappearances that was held in Geneva on 15-16 January 2025.

This event is a valuable opportunity to meet with some people and institutions who actively participated in the Congress and reflect on what has been accomplished at what has been done 10 months after the Congress, and most importantly forward to what remains to be done. We have a date to keep in mind which is the 20th of December 2026, that is the 20th anniversary of the adoption of the convention by the General Assembly. Let us begin the countdown, we have one year and two months to take action and fulfil the pledges that were made during the Congress by States and other stakeholders. On this occasion, I would like to urge more States Parties to join the group of friends of the convention and actively participate in the campaign for ratification. I would also like to call on all stakeholders, the UN, the High Commissioner for Human Rights, other international organizations, NGOs, associations of victims, academics, to work together and coordinate efforts in order to materialize the key initiatives identified during the Congress. I gladly note that the Catalan Institute for Peace (ICIP) is planning to organize a new meeting of women searchers after its first initiative in 2024.

This initiative perfectly aligns with today's topic that is the search for the forcibly disappeared as a key contribution to peacebuilding. And I have been asked to set the scene by providing some reflections about the intersection of justice, truth seeking and sustainable peace.

1. Let me start by being deliberately a bit provocative by saying that this link between the search, justice and peace may seem at first sight not immediately obvious.

I remember discussing the possibility of a visit of the Working Group on Enforced Disappearances in a country that was particularly reluctant with the ambassador of that country. My submission was that at least we could try to organize if not an official visit but a

* The positions expressed in this paper are strictly personal and do not necessarily reflect the position of the UN Committee on Enforced Disappearance or the UN.

“technical” visit which would be focussing on the search of the disappeared, leaving aside the question of justice and the fight against impunity. He told me: “if you want to drive my government crazy, let me convey this proposal to them. The country is full of mass graves, and if we start digging out the remains from them, it will surely reignite the conflict”.

So his idea was that the search will generate conflict and will certainly not participate in peace building. Why was he holding that view? I think there are mainly two reasons:

a) We speak of the search of the “forcibly disappeared” – I insist – and not just the missing or the disappeared for any reason. To be clear: we are speaking of a crime, we are speaking of persons who have been abducted by state agents, paramilitary groups, sometimes non-state actors, and who are held in secret detention in what are often torture centres, who might be kept there alive for years, or are killed and their remains concealed. This is a crime by itself, it may also be constitutive, depending on the circumstances of a serious crime in international law, that is a war crime, a crime against humanity or a crime of genocide.

The conclusion is that “searching” when speaking about forcibly disappeared persons means “uncovering crimes”, which immediately connects to whether investigations should be initiated and whether the perpetrators should be prosecuted and punished, that is the question of justice and impunity.

Of course, there has been many conceptual and practical attempts to disconnect a “humanitarian search” and justice, the so-called “sequencing” theory. That’s exactly what I was proposing to the ambassador of that country, but he simply turned it down, because in his mind practically there was no way that the two would be separated: the day his country would start digging out the remains, a claim for justice and punishment will raise.

b) and this lead to the second reason why he was thinking that the search would lead to conflict and not peace: because the search and the uncovering of the crimes will not take place in an abstract de-politicized world, but in the very society where conflicts occurred and where claims and counter-claims of different groups might still be very much alive and burning.

And here this is a very important point: the families themselves are looking for their loved ones, their motivation is love above all else. But victims, their words and actions are entangled in the contradictions, tensions and conflicts of their own society.

Very often families are caught and the issue of disappearance are politicized on all sides. The government will silence their claims by accusing them of being the families of the “terrorists”. But on the other side, communities and political groups who claim to be victims themselves will call the families of the disappeared traitors or collaborators if they try to keep the channel of communication open with the government.

Also what I have seen in many countries are governments who try to divide victims of different communities and create a form of competition between them. Victims who have the same grief don’t talk to each other, because they feel that if the victimhood of the other side is recognized, it would somehow prejudice or diminish their own victimhood.

Divisions can also be seen – and is encouraged by governments – about referring their complaints to international bodies like the UN: the government will spread the idea that this is against the interest of the country, and that is in fact condoning or being complicit in foreign intervention. Groups of victims with a patriotic sensitivity will turn against other groups of victims who have decided to speak out before the UN or others...

So in the end, it seems that we should give some credit and take as a starting point the claim of that ambassador that the intersection between the search the quest for justice and peacebuilding is far from obvious.

2. At the same time – and that is what I may have responded to that ambassador – how can you imagine that you will be establishing a lasting peace in your country without uncovering the truth about the forcibly disappeared?

There is a paradox of enforced disappearance: the perpetrators of this crime think they can deny the very existence of a human person. But while they disappear that person, they are making him or her extraordinarily present: within the family, their figure imposes itself as an unanswered question, a wound that never closes; In the public squares, the figure is exposed, the name is proclaimed. Neither you nor I will see our photo pasted on the walls of the city; but the disappeared have this bitter privilege.

Enforced disappearance is the crime of suspended time, said Louis Joinet. There is a stop in time. In many countries, we can see that no matter how much time has passed, years, decades, the question remains burning: where are they, *donde estan*?

So I guess it's a question about what we mean by peace.

Peace is not cease-fire. Peace is not even the end of war. We are speaking here of a lasting peace, a sustainable peace, and the title of the conference is telling: “peace building”, that is: not an *event*, but a *process* – which might take long, take years, but really brings peace to the peoples and the society.

Finding a disappeared, the person alive in a secret detention center, or their remains in a mass grave – brings immense peace to the families – why should not that parcel of peace contribute to the peace in the society?

Too often government think peace is about silencing the voices of victims, imposing oblivion through amnesty laws, immunities, statute of limitation and fear. But this is not peace. You cannot have peace in a society until you have looked and solved the causes of conflict.

Another concept to describe what is needed maybe would be “*democratic peace*”, that is a peace that is built through a democratic process – meaning an inclusive process, based on human rights, participation, non-discrimination, with full respect of pluralism, freedom of expression, freedom of assembly and association.

I would like to come back to the families of the disappeared – every time I hear from them, what I hear as the main motive of their action is *love* – looking for their loved ones.

The notion of ambiguous loss is now well documented as the main psychological syndrome suffered by the families of the disappeared: this means that the pain caused by uncertainty

and absence is permanent, there is no way that you can close that wound, it remains open until you know. And at the same time, it also keeps love alive, the love and affection for the person who has disappeared remains almost the same. It cruelly brings forward this human fact, that we cannot live without the ones we love, until they have died and we have mourned them.

My humble submission is that the permanence of love and affection as the main motive for the search and for justice could be, if conditions are fulfilled, the main drivers in the process of building a lasting peace.

What are the conditions? They can be initiated by families themselves. I want to mention here the experience of Algeria: in the 2000s the government was trying to oppose victims of the states and the victims of the terrorists groups. I clearly remember Nassera Dutour as a lead of the families of victims of enforced disappearances committed by the state in Algeria reaching out to associations of families of persons who had been disappeared by terrorist groups. And initiating the coalition of the associations of victims of the 1990s. It was a complete game changer, in addition to being a deeply moving human experience.

But in other situations these conditions may be created by the State itself, in situations of transition – in processes called transitional justice.

What is a key for success here is to be able to create a free and protected space where all families of the disappeared can share their experience and put their claims forward without being politicized in one way or another.

This is basically what institutions like truth commissions have tried to achieve, as well as more recent experiences of restorative justice – if you think of experiences which have a lot in common, but are also very different such as post-apartheid South Africa, Morocco IER, in the beginning of the 2000s and the current process in Colombia.

To conclude on the way forward: my first proposal takes the form of a program for an academic research: which would be the study of various institutions, truth commissions and others, that were set in different countries at different times and evaluate to what extent they allowed the voice, testimony and claims of all victims, without discrimination, to be heard for what they are, that is the expression of deep human right experience common to all human kind – and the effects it has on peace building in societies.

My second proposal comes from my experience in participating to the negotiation of the Convention, side by side with families of the disappeared. Since then, I have been deeply convinced of the multiple virtues of families of different countries meeting and exchanging their experiences beyond borders. And one of the virtues is precisely that it allows victims to extract themselves from their national experiences saturated with controversies to realize that they all go through the same human experience.

So I really praise ICIP for the initiative of gathering women searchers, and beyond this, - let's dream a little dream – I would call for something that could look like a world parliament of victims of enforced disappearance – a global institution that would be a regular meeting of families to discuss and build something out their common experience.

Finally, as a recognition of the families of the disappeared as agents of peace, I think it is time to propose them, or maybe some of the most prominent figures of the global movement for the a Nobel Peace Prize. And this a call to start coordinating and launching this campaign as part of the follow-up to the World Congress.

And as an acknowledgement to her extraordinary dedication and courage to the cause, I personally nominate a mother of the disappeared and prominent leader of the families of the disappeared, Ms Nassera Dutour, mother of Amine, forcibly disappeared in 1997 in Algeria, and President of the Collectif des Familles de Disparus en Algérie (CFDA). This is an invitation to all academics and other personalities in capacity to nominate candidates for the Nobel to join and build tomorrow's peace.