

Book of the Disappeared

The Quest for Transnational Justice



Jennifer Heath and Ashraf Zahedi

EDITORS

Copyright © 2023 by Jennifer Heath and Ashraf Zahedi
Some rights reserved



This work is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License. *Note to users:* A Creative Commons license is only valid when it is applied by the person or entity that holds rights to the licensed work. Works may contain components (e.g., photographs, illustrations, or quotations) to which the rightsholder in the work cannot apply the license. It is ultimately your responsibility to independently evaluate the copyright status of any work or component part of a work you use, in light of your intended use. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/4.0/>

For questions or permissions, please contact um.press.perms@umich.edu

Published in the United States of America by the
University of Michigan Press
Manufactured in the United States of America
Printed on acid-free paper
First published May 2023

A CIP catalog record for this book is available from the British Library.

Library of Congress Cataloging-in-Publication data has been applied for.

ISBN 978-0-472-07593-5 (hardcover : alk. paper)
ISBN 978-0-472-05593-7 (paper : alk. paper)
ISBN 978-0-472-90325-2 (open access ebook)

DOI: <https://doi.org/10.3998/11953892>

Library of Congress Control Number: 2023932730

An electronic version of this book is freely available, thanks in part to the support of libraries working with Knowledge Unlatched (KU). KU is a collaborative initiative designed to make high quality books Open Access for the public good. More information about the initiative and links to the Open Access version can be found at www.knowledgeunlatched.org.

The University of Michigan Press's open access publishing program is made possible thanks to additional funding from the University of Michigan Office of the Provost and the generous support of contributing libraries.

Cover art courtesy of Stephen Parlato.

Latin America's Contributions to the Development of Institutional Responses to Enforced Disappearances

Ariel E. Dulitzky

Historically, many consider Hitler's "Night and Fog" (*Nacht und Nebel*) decree of December 7, 1941, which ordered the secret detention and removal of political activists and resistance leaders, as the origin of modern enforced disappearances.¹ In 1946, the International Military Tribunal of Nuremberg executed German Field Marshal Wilhelm Keitel for this practice and the subsequent American Military Tribunal of Nuremberg in the *Justice* case, convicted the main lawyers of the Nazi regime for, among other things, administering the Night and Fog decree.²

Today, the term "enforced disappearance" encompasses many different situations, everything from kidnappings by drug cartels in México,³ to the detention in "black holes" of alleged persons involved in terrorism by the United States Central Intelligence Agency (CIA).⁴ The term "enforced disappearances" can refer to persons detained in political prison camps in North Korea,⁵ those who disappeared in Bosnia during the war in Former Yugoslavia,⁶ or those abducted by the death squads in El Salvador during the civil war.⁷ Some insist on the danger of overusing the term, highlighting the need for a definition that addresses only the cases of disappearance similar to those that took place in Latin America in the 1970s.⁸

Yet enforced disappearance includes diverse forms of State repression. There are distinct reasons for this criminal practice and a multiplicity of

political, economic, and psychosocial effects on the victims, as well as on the communities and societies where this technique of terror takes place.⁹ This chapter embraces the premise that the "Latin American" definition has become a yardstick for many forms of enforced disappearance practices. Regardless of whether governments target their victims selectively and systematically, whether victims are individuals, ethnic or religious groups, or rural populations. The Latin American experience helped to create an international framework, flexible enough to travel from one continent to another, through different eras, and to adapt to diverse places, causes, and needs.

Until the tragic events of Latin America in the 1970s, the issue of disappearance was not a matter of concern, conceptualization, or national or international judicial responses.¹⁰ Indeed, the term "disappeared," or *desaparecido*, to describe victims is a Latin American invention.¹¹ As Argentinean human rights defense attorney, Emilio Mignone, put it bluntly, the methodical practice of enforced disappearances in Latin America "is the maximum contribution to the history of the human cruelty."¹²

In 1988, The Inter-American Court of Human Rights (the Court) gave its first judgment on a case of enforced disappearance

Disappearances are not new in the history of human rights violations. However, their systematic and repeated nature and their use not only for causing certain individuals to disappear, either briefly or permanently, but also as a means of creating a general state of anguish, insecurity, and fear, is a recent phenomenon. Although this practice exists virtually worldwide, it has occurred with exceptional intensity in Latin America in the last few years.¹³

Thus, not surprisingly, the evolution of the very concept of enforced disappearance and the main concerns surrounding those disappearances are grounded in narratives emanating from Latin America. In the late 1970s and early 1980s, the focus of human rights advocates had been on the immediate safety of the disappeared. As victims remained unaccounted for during the next three decades, the lack of access to meaningful legal recourse became central and the emphasis on impunity and unknown truths came to define enforced disappearances.¹⁴

For better or worse, the region has always been at the forefront of the use of or combat against this policy and technique of terror.¹⁵ Latin America developed the most **effective** responses to overcome enforced disappearances. New types of **resistance** and hope go hand in hand with the

demands of truth, justice, reparation, and memory. Latin American countries learned from each other¹⁶ and served as models for other regions in confronting enforced disappearances.¹⁷

This chapter is not a historical, political, sociological, anthropological, or legal study about disappearances in Latin America, although it recognizes that all those approaches are needed to comprehensively study, understand, and respond to them. It summarizes the relationship between enforced disappearances and Latin America,¹⁸ and speculates on the consequences of this relationship for other regions in the world.

The Practice of Enforced Disappearances in Latin America

In 1983, the Latin American Federation of Associations for Relatives of the Detained Disappeared (FEDEFAM) held that there were more than ninety thousand disappeared persons. In 2010, fifty-one thousand disappeared were reported in Colombia. In México, although there is reliable official data as of 2014, the total number of missing persons or those not localized was 24,812 (not all were enforced disappearances). In 2015, cases of disappearance in Peru, according to the Single Registry of Victims, amounted to 8,661, although it is believed that the figure is actually much higher.¹⁹ These disappearances in many Latin American countries were fundamentally part of a systematic practice of human rights violations as described in 1977 by the Inter-American Commission on Human Rights (IACHR):

some governments continue to refuse to provide information on the fate of persons kidnapped from their homes, places of work, ports or airports or in public thoroughfares, by non-uniformed, heavily armed individuals, traveling in unmarked vehicles and acting with such security and impunity that they are assumed to be forces invested with some authority. The truth is that until now, all the remedies provided for under domestic law, and the innumerable efforts made by family members, friends, institutions, agencies, and by this Commission itself, to find out what has happened to victims of such procedures have been fruitless.²⁰

Indigenous peoples, community, political and union leaders, students, academics, members of religious communities, military or paramilitary agents (those suspected of collaborating with the enemy), and members of armed opposition groups²¹ are among those forcibly disappeared.²² Most of

those who disappeared were not immediately killed, but were tortured in secret detention centers, then executed. Their bodies were thrown into rivers or the sea or mutilated and discarded at roadsides, buried in unmarked graves, or cremated.²³ Few have ever been found.²⁴ Although the majority of those disappeared were men, a large number of women have also gone missing.²⁵ There were also disappearances in the form of the appropriation of children and changes of their biological identities.²⁶

As José Zalaquett Daher—the Chilean lawyer renowned for his work in the defense of human rights during the *de facto* regime that governed Chile under General Augusto Pinochet (1973–1990)—writes, in most Latin American countries, enforced disappearances were part of “a carefully organized method in order to exterminate opponents considered dangerous and to avoid answering for their deeds.”²⁷ The practice was frequently a joint effort between various States, as archetypally represented by Operation Condor, in which security and intelligence forces, mainly from Chile, Argentina, Brazil, Uruguay, and Paraguay, worked together to repress, kill, and dispose of people designated as “subversive elements,” even beyond the borders of the States themselves. Operation Condor coordinated clandestine “security forces and military and intelligence services” and was supported by the CIA.²⁸

Enforced disappearances continue to occur in high numbers in countries such as El Salvador, Colombia, and México, and in isolated incidents elsewhere, including Chile and Argentina.²⁹ In some Latin American countries, particularly in México, disappearances occur in other than political contexts, carried out by organized crime groups and drug cartels.³⁰ Among other things, these events raise the issue of whether State participation is required to qualify a disappearance as enforced.³¹ However, there are encouraging signs. In the context of the “war against terrorism,” after the September 11, 2001 attack on the United States, the CIA’s “extraordinary rendition” program has been nothing less than the use of enforced disappearance, in which suspects are kidnapped and shipped in silence and anonymity to prisons outside the United States, such as Egypt or Afghanistan.³² To date, no Latin American country has cooperated with or assisted the CIA in disappearing people through extraordinary rendition.³³

Unfortunately, disappearances have become a global phenomenon. Since its inception in 1980, the Working Group on Enforced or Involuntary Disappearances has reported 59,212 cases to 110 States. The number of cases under active consideration stands at 46,490 in ninety-five States.³⁴ However, while the systematic use of enforced disappearances practiced during the Latin American dictatorships of the 1960s and 1970s and the

civil wars of the 1980s has remained in the world's collective memory, it also created a model for understanding a particular form of State violence.

Latin America's Role in the International Response to Enforced Disappearances

Until the events in Latin America, enforced disappearances were not properly or even minimally considered or conceptualized. The first international reactions date from the mid-1970s, largely because of the work of Latin Americans in response to the region's needs.³⁵

The reactions of the Organization of American States (OAS) and the United Nations to Latin American disappearances laid the groundwork for the international response. While the IACHR denounced disappearances as early as 1974, undoubtedly, its most important contributions are its visit to Argentina and the subsequent report in 1979 and 1980.³⁶ The Commission's report was the first comprehensive intergovernmental description and understanding of enforced disappearances. Although it was not the first to address the issue of disappearance, in 1983, the OAS General Assembly became the first regional international institution to declare that the practice of enforced disappearances constitutes a crime against humanity.³⁷

The Latin American situation motivated the UN to start dealing with the issue.³⁸ The first reactions occurred in 1978 with a statement of the UN General Assembly proposed by Colombia.³⁹ In 1979, the General Assembly entrusted the Commission on Human Rights to consider enforced disappearances. A Working Group on Chile made an unprecedented mission to the country in 1978. In 1979, after dissolving the Working Group, the Commission on Human Rights appointed two experts to study the fates of disappeared persons in Chile.⁴⁰

Latin America's influence on the international response to disappearance continued with the establishment in 1980 of the Working Group on Enforced or Involuntary Disappearance (Working Group), the first specialized human rights mechanism within the UN. The Working Group was created largely in response to disappearances in Argentina and Chile, thanks to the work of mainly Latin American victims, despite fierce resistance from the Argentine dictator, General Jorge Rafael Videla (r. 1976–1981) and his government.⁴¹ Not surprisingly, out of thirteen countries considered during the Working Group's first year, eight were Latin American—Argentina, Bolivia, Brazil, El Salvador, Guatemala, México,

Nicaragua, Peru, and Uruguay. The Working Group's first two visits were to Latin America (Bolivia in 1984 and Peru in 1985).⁴²

Contributions to the Development of International Law

In the 1970s and early 1980s, the international community lacked a universally accepted definition to distinguish enforced disappearances from other violations. Influenced and (sometimes) led by Latin Americans, Amnesty International, the Working Group and the IACHR carried out essential analysis, which also concentrated on establishing legal principles to prevent, investigate, and punish those responsible, as well as to frame the rights of disappeared persons and their family members.⁴³

Latin American organizations and countries have driven the progressive development of international law in the fight against enforced disappearances.⁴⁴ Since the early 1980s, FEDEFAM and other Latin American organizations have promoted the adoption of legal instruments to deal with this crime.⁴⁵ In 1992, the UN General Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance.⁴⁶ In 1994, the OAS adopted the Inter-American Convention on Forced Disappearance of Persons, the first international legally binding document on this topic.⁴⁷ The region was also at the forefront of the process leading to the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the UN in 2006.⁴⁸ In addition, Latin American initiatives led to the inclusion in the Declaration, the Inter-American Convention, the International Convention, and the Convention on the Child of specific rules on disappeared and abducted children and the right to identity.⁴⁹

Latin American countries and civil society organizations also contributed to the creation in 1998 of the International Criminal Court⁵⁰ and pushed for the inclusion of enforced disappearance as one of the international crimes over which the court has jurisdiction and for the specific content of the elements of the crime of enforced disappearances.⁵¹ The Court has opened an investigation into Venezuela and Colombia, including cases of disappearances, and several organizations have requested an investigation into disappearances in México.⁵² While not all these international norms coincide with the definition of enforced disappearance, the rights of the victims and the individual or State responsibilities, all those instruments respond to the Latin American model or where the results of leading Latin American efforts.

The original development of international jurisprudence on enforced disappearances also rested almost exclusively on Latin American cases. The first case decided by the UN Human Rights Committee (the Committee) regarded the disappearance of an Uruguayan, Eduardo Bleier, and the rights of his family.⁵³ The Committee on Enforced Disappearances (CED) issued its decisions on the urgency procedure (article 30 of the Convention) and conducted its first visit to México. The first individual case decided by CED was on Argentina.⁵⁴ Moreover, case law on the disappearance and abduction of children developed almost exclusively around Latin American cases.⁵⁵

The conceptualization of enforced disappearances as a complex form of human rights violations and correlative State duties are due largely to the Inter-American Court.⁵⁶ Since its first three cases, the Court has developed a comprehensive, progressive doctrine on enforced disappearances.⁵⁷ It contributed to

- the understanding of the continuous nature of the crime;
- the right to know the truth about the fate or whereabouts of the victim;
- the right to know the scope and beneficiaries of reparations;
- the right to justice and the inapplicability of amnesty laws and statutes of limitations;
- the concept of "victim," encompassing the disappeared person and family members;
- presumptions of violations of rights in cases of enforced disappearances;
- specific evidentiary standards and the shifting of the burden of proof; and
- the understanding that the prohibition of enforced disappearance is an *erga omnes* (opposable to all) norm.⁵⁸

These essential contributions made by the Inter-American system to respond to disappearances in Latin America had worldwide influence and were crucial in developing international case law around enforced disappearances while enforced disappearances also influenced the nature of the Inter-American system.⁵⁹

National Latin American Responses to Enforced Disappearances

Uneven domestic efforts to develop policies dealing with enforced disappearances accompanied the international responses. Although most measures adopted have been clearly insufficient—Latin America led the effort and laid the foundation.⁶⁰

The Legislative Response

Several Latin American constitutions specifically refer to enforced disappearance, thus leading the way to adopting national legislation against it.⁶¹ A number of criminal codes include an autonomous crime of enforced disappearance.⁶² Nevertheless, the inclusion of such a crime does not necessarily mean that its definition is compatible with international instruments or that it is required or has contributed to the punishment of those responsible for the crime.⁶³ In 2017, México approved the first law in the world to regulate all aspects related to enforced disappearances.⁶⁴

Given the legal uncertainty that remains for the disappeared and his or her family members, Latin American countries, almost exclusively, have adopted a specific declaration of absence due to enforced disappearance.⁶⁵ Very few countries in other regions in the world have such legislative and constitutional frameworks to deal with and refer to enforced disappearances. An important exception is the Philippines Republic Act of 2012, a very comprehensive law. Other relevant exceptions could be the law establishing the Office of Missing Persons in Sri Lanka, the Laws on Missing Persons from Kosovo, Bosnia and Herzegovina, and Croatia. However, most of these laws are about “missing persons” and not enforced disappearances.⁶⁶ These legal provisions are important as recent studies demonstrate that the existence of a national law against crimes against humanity (including enforced disappearances) double the likelihood of initiating prosecution and increase the chances of successful convictions.⁶⁷

The Response in Terms of Justice

Latin America is the one region where significant numbers of countries have made inroads into prosecuting officials for enforced disappearances and other acts that constitute international crimes in national courts. The number of indictments and trials is impressive. Across the region, convictions include five former heads of state and a number of high-ranking military, police, and civilian officials. No other region in the world can match Latin America’s progress in this area.⁶⁸

Argentina and Chile are the vanguard, with hundreds processed and convicted.⁶⁹ Other impressive advances include court-convicted heads of state, such as Alberto Fujimori (r. 1990–2000) in Peru and Juan María Bordaberry (r. 1973–1976) in Uruguay, in part for their responsibilities for enforced disappearances.⁷⁰ In Guatemala, courts tried and convicted Efraín Ríos Montt (r. 1982–1983) for genocide, including enforced disappearances, although his conviction was later partially annulled. In Colombia, though there are pockets of impunity and sometimes grave relapses, there have nevertheless been a few important advances.⁷¹ All these efforts have created a rich, unique Latin American case law on enforced disappearances.⁷² The advances have not been easy and have provoked strong political, ethical, and legal debates on the viability of justice and the proper balance between truth and justice.⁷³ Yet there is still a long way to go in countries like México, Brazil, Honduras, or Paraguay.⁷⁴

On a parallel yet somehow contradictory track, in the past, the region has adopted laws providing amnesty for those who commit enforced disappearance (or laws with similar effects). In a first wave, most national courts ratified the constitutionality of such laws.⁷⁵ In response, Latin American organizations turned to international bodies and the Inter-American system led to the development of jurisprudence, ruling that amnesty laws were not acceptable in enforced disappearance cases.⁷⁶ Additional steps were taken to keep judicial proceedings open in spite of amnesty laws, this time through Latin American judges, who developed extremely important jurisprudential theories, such as the continuous nature of the crime of enforced disappearance, to avoid the application of statutes of limitation or to overcome some of the effects of amnesty laws.⁷⁷

Until recently, in many Latin American countries—with exceptions such as Brazil—the discussion has moved from the idea of total impunity to the issue of how to prosecute criminals in enforced disappearance cases. The new issues ranged from prosecuting increasingly complex and sensitive kinds of crimes to organizing trials involving multiple defendants and victims, to reaching behind the triggermen to arrive at the high-ranking military and civilian official, as well as financial and political figures who were complicit.⁷⁸ One Argentinian court convicted a priest for his participation in enforced disappearances and another convicted several judges for their complicity in such cases.⁷⁹ Additionally, a final set of issues arises from post-conviction dilemmas related to alternatives to imprisonment and the role of sentencing.⁸⁰ However, today the region is seeing some setbacks such as the reinstatement of the pardon of former Peruvian President Alberto Fujimori.⁸¹

Alongside these efforts, Latin America also pursued justice for victims

in foreign courts. Examples range from the use of the Alien Torts Claim Act in the United States to the invocation of universal jurisdiction in the famous case of former Chilean President Augusto Pinochet (r. 1974–1990) and the conviction of former Argentine naval officer, Adolfo Scilingo, both in Spain.⁸² Latin American lawyers led some of these efforts, contributing to the development of case law on universal jurisdiction and the State's responsibility in prosecuting enforced disappearances in third countries (e.g., Scilingo was tried in Spain for the disappearances he committed in Argentina). Lawyers included Carlos Slepoy, an Argentinian attorney residing in Madrid, and others with strong connections to Latin America, such as Manuel Olle, Joan Garces, Ana María Chávez de Seropaj, and Gregorio Dionis.⁸³ As in Spain, courts in Italy, Sweden, France, Switzerland, Belgium, and Germany also heard cases of enforced disappearances in Latin America.⁸⁴

These generated or consolidated the cascade effect, also called the Pinochet Effect, that is, the opening and reopening of human rights trials.⁸⁵ Nevertheless, these trials abroad cannot obscure the processes that already existed in Latin America.⁸⁶ In a parallel process, some Latin American judges support the efforts to obtain justice in cases of enforced disappearances that occurred in other countries and are exercising universal jurisdiction for grave human rights violations including enforced disappearances.⁸⁷ Of particular importance are the decisions of the Mexican Supreme Court authorizing the extradition of Argentinian ex-naval officer Ricardo Miguel Cavallo to Spain and the Chilean Supreme Court's authorization for the extradition of Fujimori back to Peru. By contrast, however, in 2007, the Constitutional Court of Guatemala rejected the request for arrest and extradition of Guatemalan military including Rios Montt accused of genocide before the Spanish courts.⁸⁸

All these efforts for justice and responses at national, transnational, and international levels transformed the view that many Latin Americans had of judges. During the dictatorships and civil wars, judges sided with the government perpetrators of disappearances, methodically rejecting attempts to find justice through habeas corpus.⁸⁹ Now, however, as executive and legislative branches collaborate with political parties, ignoring the demands of victims, judges often confront political powers that question their decisions. Judges, lawyers, and victims are taking leading roles in dismantling these political alliances.⁹⁰ This new situation creates fresh doubts and tensions.

The Response Regarding the Truth

The Latin American experience has shaped an understanding about the victimization of the families of the disappeared and as holders of the right to know the truth, as well as the legal, ethical, moral, and political reasons for seeking the truth. The Inter-American system made key contributions to the legal meaning of this right and duty.⁹¹ Latin American courts and tribunals have expressly reaffirmed the right to the truth in cases of enforced disappearances.⁹²

Other countries and regions, such as South Africa, copied, transformed, and adopted the initiatives taken since the 1980s. Latin America's methods appealed to truth commissions to underscore the practice of enforced disappearances. Truth commissions as strategies for accountability came to international attention in the 1980s and early 1990s, and, since then, almost all countries in the region have formed truth commissions to explore enforced disappearances.⁹³

To uncover and identify the disappeared, strong search techniques and genetic capabilities were established with forensic teams like those in Argentina, Peru, and Guatemala or, as in Chile, formed specialized services for forensic medicine.⁹⁴ Those forensic teams led the search for the remains of the disappeared in Latin America and in other parts of the world. Africa and Asia have been slower to initiate large-scale missing persons projects and they still lack strong capacity in forensic science and the array practiced is limited.⁹⁵ Forensics were not used at all prior to Latin America's initiation. Those efforts came with ethical, legal, social, and political challenges, such as the protection of privacy, the idea that searching for the disappeared would reopen past wounds, the tensions between the needs of criminal investigations and the humanitarian approaches to the identification of remains, to mention a few.⁹⁶

Latin America, more than any other region, also adopted national search plans, national commissions for search and/or identity of disappeared persons.⁹⁷ In recovery and identification of the missing, the Western Balkans probably made more progress with the disappeared than Latin America. The International Commission on Missing Persons indicates that a successful combination of civil society engagement, institutional development, and scientific innovation has made it possible to account for more than 70 percent of the missing from the conflict in Bosnia and Herzegovina.⁹⁸

The laws of access to information that proliferated in Latin America stipulate that information on human rights violations, including enforced

disappearances, cannot be restricted.⁹⁹ Some Latin American countries enlisted regulators, such as Guatemala's Human Rights Ombudsman, to search for the disappeared.¹⁰⁰

In Argentina there were *juicios por la verdad* (trials for the truth) whose purpose was "not judgement and condemnation of criminals accused of serious human rights violations, but, rather, via establishment and clarification of facts, knowledge of the victim's fate, coupled with legal recognition of the factual truth."¹⁰¹

These efforts, particularly those of the Latin American truth commissions, have been essential to avoid denial or revisionist theories and to dismiss such theories.¹⁰² However, despite all these initiatives, most forcibly disappeared bodies are never found, and their fates never revealed.¹⁰³

The Response on Reparations and Memory

Latin America also made enormous contributions on the right and scope of reparations for victims of enforced disappearances. The Court has advanced impressive and innovative jurisprudence on the subject. Several countries, such as Argentina, Brazil, Chile, Peru, Guatemala, and Colombia, to a greater or lesser extent, granted reparations or designed plans for reparations with varying degrees of implementation and success. Reparations ordered by the Court have not always produced the desired results and have not been free of implementation problems.¹⁰⁴ This process brought debates about a broader perspective of reparations beyond financial aspects, mostly initiated in Latin America, then expanded to other regions. Some discussions include

- gender approaches;
- the possibilities of administrative reparations programs;
- the non-applicability of statutes of limitation on reparations;
- memory as part of reparations;
- the distinctions between reparations and university public social spending policies;
- individual and collective reparations; and
- reparations from a cultural perspective.¹⁰⁵

The region also pioneered development of important programs and standards for mental health care for the relatives of the disappeared.¹⁰⁶ Latin America also made significant contributions to State and civil society initiatives related to memory. There has been important work in the field

of museums and memory spaces in recovering places symbolic to the disappearances and the construction of memorials. There is also remarkable production on the theme of memory in cinema, literature, and photography, among other art forms.¹⁰⁷ There are also important Latin American steps in the systemization, declassification, access, digitization, and reconstruction of archives with documents on disappearances.¹⁰⁸ There is also progress in developing a legal right to memory. Here, the Court (although with many theoretical and practical gaps) is also contributing to the understanding of memory for enforced disappearances.¹⁰⁹

Sadly, these efforts have not been applied in some other areas of the world. A Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka expressed concern that there is no government supported memorial built for the victims of enforced disappearances and the Working Group's report on its mission in Turkey indicated that, in light of political reluctance to come to terms with past enforced disappearances, as those perpetrated against Kurds in the 1990s, it is not unexpected to note the absence of official memorial sites or remembrance places.¹¹⁰

Latin American contribution to the Human Rights Movement

Latin America has forged the work of human rights at national, regional, and international levels based on its reaction to enforced disappearances. Investigation, reform, and mobilizations have had an impact on international organizations and human rights movements in other countries.¹¹¹

The famous *Madres de la Plaza de Mayo* (Mothers and Grandmothers of the Plaza de Mayo) in Buenos Aires, the Vicariate of Solidarity in Chile, FEDEFAM—the first international federation of families of disappeared persons—and many organizations in every country have created new strategies on disappearances.¹¹² Their work serves as models in other parts of the world (not only about issues of enforced disappearances). At least two decades later, multiple organizations in other regions, where disappearances had existed long before, are now following the Latin American human rights example. These include the Euro-Méditerranéenne Fédération Contre Les Disparitions Forcées, the Asian Federation against Disappearances, and the International Coalition against Enforced Disappearances, newly established in 2000.¹¹³ The Saturday Mothers in Istanbul who hold their vigils each week at noon, fashioned themselves after the Mothers of the Plaza de Mayo, who began their protests in 1977.¹¹⁴

Indeed, it is impossible to conceive of the human rights movement today without analyzing its origins and consolidation during the 1970s, 1980s, and 1990s in Latin America, mainly in response to enforced disappearances.¹¹⁵ Latin American women play a leading, central, and crucial role at the forefront of the struggle for justice. Azucena Villaflor, whose son disappeared in 1976, was one of the founders of the Mothers of the Plaza de Mayo and was herself disappeared in 1977. In México, Rosario Ibarra de Piedra, whose son disappeared in 1975, is the director of *Comité Eureka*. Mamá Angelica Mendoza, whose son was kidnapped and disappeared in 1983, joined other women to form the National Association of Families of the Kidnapped, Detained and Disappeared of Peru. She was its leader until her death in 2017. In Colombia, Yanette Bautista, whose sister disappeared in 1987, is director of the Nydia Erika Bautista Foundation. In Chile, Sola Sierra Henríquez, whose husband disappeared in 1976, was the first president of the *Agrupación de Familiares de Detenidos Desaparecidos*. Bertha Oliva de Nativi, whose husband disappeared in 1981, founded the *Comité de Familiares de Desaparecidos de Honduras*. Aura Elena Farfán, whose brother disappeared in 1984, directs the Association of Relatives of Detained and Disappeared of Guatemala.¹¹⁶

Is the Latin American Model Valid for Other Regions?

Latin America influenced the development of enforced disappearances as an international concern and a specific complex human rights violation as well as the responses. Thus, there is an obvious question: does this model provide an appropriate global and universal framework for addressing State violence that in Latin America is called enforced disappearance? The answer is yes.

One of the main lessons from Latin America is that the model is flexible and comprehensive enough to accommodate differences in the practice of enforced disappearances and the responses to it.¹¹⁷ Despite many commonalities, enforced disappearances are contextualized forms of violence.¹¹⁸ The model allows for looking at enforced disappearances in its many forms, such as those carried out predominantly in urban areas against middle-class professionals, as happened in Argentina; or those which occurred on a massive scale in rural areas and during authoritarian regimes such as Fujimori's in Peru; or against Indigenous people in Guatemala; or those that occurred within civil wars as in El Salvador; or under military dictatorships like that of Uruguay.¹¹⁹ The model has also allowed dealing with isolated enforced disappearances in democratic contexts.

The framework is broad, encompassing disappearances carried out exclusively or mainly by the armed forces (such as in the Southern Cone of Argentina and Chile in the 1970s) to those practiced by private or non-State actors with the cooperation, tolerance, or acquiescence of the State (like many that happened in Colombia and currently occur in México). In addition, the framework is sufficiently flexible to understand enforced disappearances in the context of the doctrine of national security, the fight against terrorism, and combating drug trafficking or organized crime. It also allows for the inclusion of enforced disappearances practiced as part of systematic plans and crimes against humanity (such as those conducted by Operation Condor), as acts within a practice of genocide (as in Guatemala) or as mere isolated incidents (such as disappearances in the Dominican Republic).

Latin American experiences demonstrate the validity of the basic principles of truth, justice, reparations, memory, and guarantees of non-repetition, while taking a contextualized perspective that suits local needs and realities, from international truth commissions as in El Salvador, mixed national and international commissions as in Guatemala, or purely national ones in the rest of the region to truth commissions limited to dealing exclusively with enforced disappearances (as in Argentina) or commissions with broad mandates (as in Peru). In Asia, for example, Sri Lanka so far has chosen to create inquiry commissions rather than truth commissions.¹²⁰

The responses to enforced disappearances need to pay attention to global and universal principles, as well as to local realities on the ground and to local and micro perspectives and needs. The phenomenon of disappearances finds its roots in the political structure of the society in which they occur.¹²¹ Thus, it is important to be attentive to the different contexts, manifestations, spatial, and temporal patterns, as well as to local and regional dynamics of enforced disappearances in different parts of the world.¹²² In terms of justice, the paths, progress, and setbacks have been different throughout Latin America.¹²³

Anthropologists such as Sally E. Merry and Richard Wilson insist on the processes of domestication or the explanation of local uses and resignifications of university human rights concepts, in our case enforced disappearances. Merry and Wilson explain the dynamics and diversity of social actors participating in the translations from global or universal practices and perceptions to the local spaces. In these processes, attention should be paid to the victims' subjectivity, perpetrators, origins, causes, and consequences of violence, its meaning, and the social mobilization generated.¹²⁴ That is precisely this article's application. As Francisco Ferrandiz explains, there is a process of "legal download" in the use of the concept of enforced disap-

pearance in the Spanish context. This refers to the many ways, modalities, and channels international law is transferred and translated to national or local contexts.¹²⁵ Ferrandiz describes the need to understand the historical, sociological, legal, or even symbolic differences and parallels of particular forms of repression and the type of violence they generate, the bureaucracies of silence and death they trigger. However, it is perfectly legitimate to integrate these historical experiences, with all their particularities, with the international legal concept of enforced disappearance. The opposite would be to argue that the only legitimate possibility of applying the concept of enforced disappearances is to the social context in which it took the first steps of its classification and jurisprudence. That is the Latin American context. Of course, that means that one must recognize the historical and political contexts and short-, medium-, and long-term social, legal, and political responses that each disappearance generates.¹²⁶ As Adam Rosenblatt explained in relation to the use of the terms "disappearances" and "missing persons," both are

context-dependent and often highly unstable in nature. . . . In colloquial English usage, "missing person" conjures up associations of runaways, kidnappings, and others unfortunately affected by everyday incidents, whether criminal or not. . . . "The disappeared" . . . calls to mind authoritarian regimes, political programs of extermination, and the language of human rights reports. In practice, however, these two kinds of events can occur simultaneously in one geographical setting. For example, people living under oppressive regimes can go missing for ordinary reasons, and those same regimes can try to cover up their programs of disappearance by claiming that their victims have actually run off with lovers or gone into involuntary exile, and so on. However, at the end of the day, a distinction between missing and disappeared exists and the contexts in which disappearances take place influences those distinctions with missing persons.¹²⁷

This article proposes to understand the Latin American model and influence on enforced disappearances as a normative transnational/international framework that operates under unique cultural and political logics, necessarily conditioned by local particularities and meanings. It recognizes how national or even regional processes absorb and influence international human rights approaches.¹²⁸ Socioeconomic, political, cultural, and even religious conditions determine the ways in which repressive practices

develop and how people respond to them. For example, the power held by perpetrators during political transitions or victims' profiles or their ability to mobilize are essential for understanding the dynamics in transitional justice processes. The same is true whether disappearances occur within the same country when the victims are remote, isolated, or marginalized, or whether, conversely, they reside in urban centers or are middle class.¹²⁹ However, the approach insists that the rights to truth, justice, reparation, and memory and guarantees of non-repetition of victims adequately addressed, recognizing the need to consider each situation on its own merits and particularities in order to develop tailored policies accordingly.

The basic right to know the truth about the fate or whereabouts of a disappeared person required this contextualized approach, considering the family situation and careful assessment of the cultural, religious, and social contexts.¹³⁰ This is also valid for memorialization or burials, exhumations, and identification. The concept of victim-centered approaches to enforced disappearances and victims' participation, on which international standards insist, require one to understand that the victim's needs are highly context-specific, local, emotional, psychological, and spiritual constructs.¹³¹

By contextualizing the practice of enforced disappearances, it is easier to understand some of the differences between Latin America and other regions and to highlight the similarities. One can understand why, unlike Latin America, Southeast Asian nations did not support the creation of the International Criminal Court or the inclusion of the crime of enforced disappearance in the Rome Statute. As explained in this article, Latin America uniquely and unlike other regions has placed a strong emphasis on criminal accountability and the criminalization of the practice of enforced disappearance both domestically and internationally.¹³² It is understandable that enforced disappearances affect women differently, as, for instance, Jeevasuthan Subramaniam and her co-writers describe in "Implications of enforced disappearances on women-headed families in the northern province, Sri Lanka," explaining how cultural, ethnic, and social context influenced the identification of the wives of disappeared, the so-called half-widows,¹³³ or why broader definitions of disappearances, including non-State actors are used more often in certain parts of Asia.¹³⁴ Similarly, it helps to recognize the differences in healing processes. In Timor-Leste (East Timor), some families do not want DNA tests and burial rituals are possible even without the body or remains of the disappeared person, something that does not happen in Latin America.¹³⁵ Underreporting of disappearances is more pronounced in Africa or Asia than in Latin America, because the consent of the family to present cases to the Working Group is required.

And in places like North Korea, international laws, and even research are unenforceable.¹³⁶

The contextualized approach to enforced disappearances also allows understanding that both the practice and response are temporal processes that evolve over time and that different regions do not follow the same paths.¹³⁷ The evolution of crime and resistance is also determined geographically within countries themselves.¹³⁸

Conclusion

Understanding Latin America is important, considering the place it has held in discussions about enforced disappearances on a global scale. As this article tries to demonstrate, Latin America has played a prominent role, as a source of innovation and protagonism, both in developing and perfecting this heinous crime and in constructing national, transnational, regional, and international responses. Of course, Latin America has not always been the leader or pioneer. In 2004, Bosnia and Herzegovina adopted the first law on missing persons, while a 1981 agreement between the Greek and Turkish Cypriot communities under the auspices of the United Nations created the first specialized body to search for disappeared people.¹³⁹

Revisiting the relationship between Latin America and enforced disappearances serves another important aspect. It challenges the idea that the global south is the place where abuses are committed and the global north where ideas and strategies on how to confront them emerge. The scholar Paolo Carozza wrote

[Even] among human rights enthusiasts and activists, Latin America has long been regarded as the object of human rights concerns more than a contributor to human rights thinking. Or rather, its "contributions" have been perceived almost exclusively in negative terms. For example, the creativity of its repressive regimes in fashioning new forms of abuse, like the "disappearance," provoked the governments and human rights organizations of Europe and North America to come up with new norms and institutions to address problems. . . . But the affirmative dimensions of human rights in Latin America, instead, have much more often been seen to be tarnished and inferior copies of grand, rich European ideas.¹⁴⁰

The purpose of this chapter is, in part, to highlight the immense contributions Latin America has made against enforced disappearances and to the human rights movement. However, despite the resemblances and generalizations, there are profound dissimilarities between diverse historical moments in which the disappearances occur, between methodologies or between sub-regions (with marked differences between disappearances in the Southern Cone and Central America). Many of the advances, developments, or "wins" have not happened uniformly. Chile and Argentina are at the positive end of the continuum, although moving at different speeds and vicissitudes, while other countries, like Honduras, are making less progress.¹⁴¹ Others, like Guatemala and Peru have had both improvements and regressions. In still other countries, such as Colombia, progress coexists with the continuation of enforced disappearances. In countries like México, progress on disappearances has been extremely limited and the situation has worsened.¹⁴²

While eliminating political opponents has long been a strategy of those in power throughout the world, the Latin American story, and its ability to capture international attention has forever left its imprint on international law defining enforced disappearances. The need to frame a distinct legal norm, and the content of that normative prohibition against enforced disappearance are deeply connected to the narrative that emerged from Latin America. The international norms outlawing, preventing, and punishing the use of enforced disappearance might never have existed but for the Latin American experience. Its narrative provided the urgency for the international community to address the crime through its own distinct frame, as a separate violation that was more than the sum of its criminal parts. The human stories that emanated from Latin America demanded an international call for action.¹⁴³

Although Latin America's change from a system of enforced disappearance to one that deals with the crime more effectively is still fragile, uneven, and incomplete, it is nevertheless remarkable. The region's experience provides essential and inspirational lessons on the ability of civil society networks—especially family members, human rights advocates, and the professionals allied with them—to change law, policy, and political consensus through creativity and perseverance.¹⁴⁴

As enforced disappearances continue and are globalized, societies that now face the same challenges are equipped with intellectual resources, policy, and activism models that can be readily employed, without having to invent them from scratch, as Latin America did.¹⁴⁵ The challenge is how to continue adapting and contextualizing the model to other regions, realities, and needs.

Notes

1. The author wishes to thank Jennifer Heath for her assistance in preparing and doing an amazing editing of this paper. Thanks to Federico Andreu, Gabriella Citroni, Cath Collins, Lucrecia Molina Theissen, and Wilder Tyler who commented on an earlier and different Spanish version of this article.
2. See the "Proceedings of the International Military Tribunal sitting at Nuremberg," in *Trial of German Major War Criminals*, vol. 3 (London: United Nations War Crimes Commission, 1950); and *Trials of War Criminals Before the Nuremberg Military Tribunals under Control Council Law No. 10* (Washington, DC: U.S. Government Publishing Office, 1949-1953).
3. Open Society, Justice Initiative Program, *Undeniable Atrocities, Confronting Crimes Against Humanity in Mexico* (New York: Open Society Foundations, 2016). <https://www.opensocietyfoundations.org/sites/default/files/undenialble-atrocities-2nd-edition-20160808.pdf>
4. See, e.g., Edmund Clark and Crofton Black, "The Appearance of Disappearance: The CIA's Secret Black Sites," *Financial Times*, March 17, 2016. <https://www.ft.com/content/90796270-ebc3-11e5-888e-2eadd5fbc4a4>
5. United Nations, Human Rights Council, *Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea*, February 7, 2014, A/HRC/25/CRP.1.
6. For example, Trial International, *Bosnia and Herzegovina: ECHR Denies Justice To Victims Of Enforced Disappearances And Arbitrary Executions*, July 22, 2014. <https://trialinternational.org/latest-post/bosnia-and-herzegovina-echr-denies-justice-to-victims-of-enforced-disappearances-and-arbitrary-executions/>
7. Belisario Betancourt, Reinaldo Figueredo Planchart, Thomas Buergenthal, "From Madness to Hope: The Twelve-Year War in El Salvador," *Report of the Commission on the Truth for El Salvador* (New York: United Nations, 1993).
8. Gabriel Gatti, "Lo nuestro, como en Argentina': Humanitarian Reason and the Latin Americanization of Victimhood in Spain," *Journal of Latin American Cultural Studies* 25, no. 1 (2016): 147-65. <http://dx.doi.org/10.1080/13569325.2016.1143352>
9. Jonah Rubin, *Aproximación al concepto de desaparecido: reflexiones sobre El Salvador y España* (Ciudad de México: Alteridades, 2015).
10. José Zalaquett, "The Emergence of 'Disappearances' As a Normative Issue in Walling," in Carrie Spiderman, Susan Waltz, eds., *Human Rights: From Practice to Policy* (Ann Arbor: University of Michigan, 2011), 9. <http://deepblue.lib.umich.edu/handle/2027.42/89426>
11. Zalaquett, "The Emergence of 'Disappearances,'" 9.
12. Emilio Fermín Mignone, et al., *Repressive Strategy of the Military Dictatorship: The Doctrine of Global Parallelism* (Buenos Aires: Ediciones Colihue, 2006), 3-39.
13. "Velásquez Rodríguez v. Honduras," *Inter-American Court*, Judgment of July 29, 1988, (Merits), para. 149.
14. Barbara A. Frey, "Los Desaparecidos: The Latin American Experience as a Narrative Framework for the International Norm against Forced Disappearances," *Hispanic Issues Series* (2009): 69. <http://hdl.handle.net/11299/182852>
15. Molina Theissen and Ana Lucrecia, "The Forced Disappearance of Persons in Latin America," *Ko'aga Rone'eta*, Series 7 (1998).

16. José Zalaquett, introduction to the English edition of the *Report of the National Truth and Reconciliation Commission of Chile*, 9. [Http://www.cdh.uchile.cl/media/publicaciones/pdf/18/61.pdf](http://www.cdh.uchile.cl/media/publicaciones/pdf/18/61.pdf); original title: *Introduction to the English Edition of the Report of the Chilean National Commission on Truth and Reconciliation*, Center for Civil and Human Rights, Notre Dame Law School (Notre Dame:Notre Dame University Press, 1993).

17. Martin Scheinin, et al., *Joint Study Prepared by Mr. Martin Scheinin, Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms in the Fight Against Terrorism, Mr. Manfred Nowak, Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Working Group on Arbitrary Detention, Represented by Its Vice-President, Mr. Shabeen Sardar Ali; and the Working Group on Enforced or Involuntary Disappearances, Represented by its President, Mr. Jeremy Sarkin, A/HRC/13/42*, para. 5.

18. Most of this article's references will be from Chile and Argentina, which have led, experienced, exported, and shared both the development of enforced disappearances as a systematic practice and responses to them.

19. See http://elpais.com/diario/1983/02/11/internacional/413766003_850215.html; <http://lawg.org/storage/documents/Colombia/RompiendoElSilencio.pdf>; and <http://aristeguinoicias.com/0309/mexico/25-mil-desaparecidos-en-mexico-reconoce-segob-la-mayoria-en-tamaulipas/>

20. *Annual Report of the Inter-American Commission on Human Rights*, 1977, section II.

21. "Case of Bámaca Velásquez v. Guatemala," *Inter-American Court of Human Rights*, Sentence of November 25, 2000, (Merits), series C no. 70.

22. As it was described in Guatemala, "Informe de la Comisión para el Esclarecimiento Histórico," *MEMORIA DEL SILENCIO, Conclusiones y Recomendaciones*, para. 89, (*Memorias del Silencio*).

23. Eric Stover and Rachel Shigekane, "The Missing in the Aftermath of War: When Do the Needs of Victims' Families and International War Crimes Tribunals Clash?" *Revue Internationale De La Croix-Rouge/International Review of the Red Cross* 84, no. 848 (2002): 845-866 at 849.

24. Committee on Enforced Disappearances, *Concluding Observations on the Report Submitted by Paraguay Under Article 29, Paragraph 1 of the Convention*, CED/C/PRY/CO/1, para. 34.

25. See, for example, *Fundación Nydia Erika Bautista para los Derechos Humanos, Desapariciones forzadas de Mujeres en Colombia, Un estudio de casos del conflicto armado: 1985-2015*. <http://www.hchr.org.co/player/internalvideo/DesaparicionDeMujeresEnColombiaIMP.pdf>

26. As documented by the truth commissions of Argentina, Guatemala, and El Salvador, "Memoria del Silencio," in *Informe CONADEP Nunca Más* vol. 2 (1984), para. 451ff; and Comisión de la Verdad, "De la locura a la esperanza: La guerra de 12 años en El Salvador," *San Salvador: Editorial Arcoíris* (1993): 118.

27. Zalaquett, *Introduction*, 3.

28. Ariel C. Armony, *Argentina, the United States, and the Anti-Communist Crusade in Central America, 1977-1984*, vol. 26 (Athens, OH: Ohio University Press, 1997).

29. See for example, U.S. State Department, 2020, *Country Reports on Human*

Rights Practices: El Salvador, 2021, HUMAN RIGHTS Watch, *The War in Catatumbo. Abuses by Armed Groups Against Civilians Including Venezuelan Exiles in Northeastern Colombia*, (2019) or *Amnistía Internacional, México: Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico*, 2021, and for example in Chile, Centro de Derechos Humanos, Universidad Diego Portales, *Informe Anual sobre Derechos Humanos en Chile 2009*, at 130 and 325 or in Argentina, Committee on Enforced Disappearances, Consideration of reports of States Parties under article 29 of the Convention, Reports of States parties under article 29, paragraph 1, of the Convention that are due in 2012, CED/C/ARG/1, para. 14.

30. Committee on Enforced Disappearances, *Concluding Observations on the Report Submitted by Mexico Under Article 29, Paragraph 1 of the Convention*, CED/C/MEX/CO/1, para. 10.

31. Rainer Huhle, "Non-State Actors of Enforced Disappearance and the UN Convention for the Protection of All Persons from Enforced Disappearance," in *Humanitäres Völkerrecht—Informationsschriften / Journal of International Law of Peace and Armed Conflict* 1 (2013): 21–26.

32. Margaret Satterthwaite, "Extraordinary Rendition on Disappearances in the War on Terror," *Gonzaga Journal* 10 (2006): 70, 72. See also, chapter 4 in this volume, "Extraordinary Rendition: A Human Rights Analysis," by David Weissbrodt.

33. United States Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency's Detention and Interrogation Program, Foreword by Senate Select Committee on Intelligence Chairman Dianne Feinstein, Findings and Conclusions, Executive Summary*; and Open Society, Justice Initiative, *Globalizing Torture: CIA Secret Detention and Extraordinary Rendition* (2013), 61–118, listing fifty-four governments that participated in the CIA program. None of those from Latin America.

34. *Report of the Working Group on Enforced or Involuntary Disappearances*, August 4, 2021, A/HRC/48/57.

35. Wilder Taylor, "Background to the Elaboration of the Draft International Convention for the Protection of All Persons from Forced Disappearance," *The Review/International Commission of Jurists* 62–63 (2001): 65.

36. IACHR, *Report on the Situation of Human Rights in Argentina*, OEA/Ser.L/V/II.49, doc. 19, April 11, 1980, Original: Spanish.

37. OAS, *General Assembly*, AG/RES. 666 (XIII-o/83), November 18, 1983.

38. For a brief explanation of the UN concern with enforced disappearances prior to 1980, see "Question of Human Rights of all Persons Subjected to Any Form of Detention or Imprisonment, In Particular Question of Missing and Disappeared Persons," *Report of the Working Group on Enforced or Involuntary Disappearances*, E/CN.4/1435, January 26, 1981, Original: English/Spanish, para. 13–25.

39. UN General Assembly, Resolution 33/173, December 20, 1978. There are some references since 1975, resolution 3450 (XXX), on Cyprus; and Resolution 3448 (XXX), both on December 9, 1975, on Chile. However, in the English version, they refer to "persons unaccounted for." The term "disappeared" first appears in resolution 32/118.

40. Reed Brody and Felipe Gonzalez, "Nunca Más: An Analysis of International Instruments on Disappearances," *Human Rights Quarterly* 19, no. 2 (1997): 365–405.

41. Iain Guest, *Behind the Disappearances: Argentina's Dirty War Against Human Rights and the United Nations* (Philadelphia: University of Pennsylvania Press, 1990).

42. Nigel S. Rodley, "United Nations Action Procedures Against 'Disappearances,' Summary or Arbitrary Executions, and Torture," *Human Rights Quarterly* 8, no. 4 (1986): 708.

43. Amnesty International USA, 1980; and Howard M. Kleinman, "Disappearances in Latin America: A Human Rights Perspective," *NYU Journal of International Law and Politics* 19 (1986): 1033.

44. Patricio Rice, "La Fédération Latino-Américaine des Organisations de Familles de Détenus Disparus et le Projet de Convention," in Olivier de Frouville and Emmanuel Decaux, eds., *La Convention internationale pour la protection de toutes les personnes contre les disparitions forcées* (Bruxelles: Bruylant, coll. « Droit et Justice », 2009), 235, 37.

45. For the different initiatives see, Wilder Taylor, "Background to the Elaboration of the Draft International Convention for the Protection of All Persons from Forced Disappearance," *International Court of Justice Review* 62 (2001): 65.

46. *Declaration on the Protection of All Persons from Enforced Disappearance*, adopted by the United Nations General Assembly, A/RES/47/133, December 18, 1992. See Brody and Gonzales, "Nunca Más."

47. Inter-American Convention, *Inter-American Convention on Forced Disappearance of Persons*, adopted on June 9, 1994. See Brody and Gonzales, "Nunca Más."

48. Olivier de Frouville, "The Committee on Enforced Disappearances," in *The United Nations and Human Rights: A Critical Appraisal*, vol. 3., 2nd ed., ed. by Philip Alston et al. (Oxford: Oxford University Press, forthcoming).

49. *Declaration*, article 20; *Inter-American Convention*, article 12; *International Convention*, article 25; and *Convention on the Rights of the Child*, 1989, article 8.

50. José A. Guevara and Tarciso Dal Maso, *La Corte Penal Internacional: Una Visión Iberoamericana* (México: Ed. Porrúa, 2005).

51. Brigitte Suhr, "La desaparición forzada de personas en el Estatuto de Roma y los Elementos de los Crímenes," in José Guevara and Mariana Valdés Riveroll, eds., *La Corte Penal Internacional: ensayos para la ratificación e implementación de su estatuto*. (Universidad Iberoamericana and Secretario de Relaciones Exteriores, 2002), 61.

52. Jocelyn Courtney, "Enforced Disappearances in Colombia: A Plea for Synergy Between the Courts," *International Criminal Law Review* 10, no. 5 (2010): 679-711; International Federation of Human Rights, "México Coahuila: Ongoing Crimes Against Humanity," *Communication to the International Criminal Court*, https://www.fidh.org/IMG/pdf/angmexico_coahuila_ongoing_crimes_against_humanity_fidh-final_a_revisar-1.pdf; "ICC Prosecutor, Mr. Karim A. A. Khan QC, Opens an Investigation into the Situation in Venezuela and Concludes Memorandum of Understanding with the Government," press release, November 5, 2021. <https://www.icc-cpi.int/Pages/item.aspx?name=pr1625>

53. "Eduardo Bleier v. Uruguay," Communication no. R.7/30, UN doc. supp. no. 40 (A/37/40) at 130, 1982.

54. "Press Conference following the visit of the Committee on Enforced Disappearances to Mexico," November 26, 2021. <https://www.ohchr.org/en/statements/2021/11/press-conference-following-visit-committee-enforced-disappearances-mexico>; and Committee on Enforced Disappearances, *Views Approved by*

the Committee Under Article 31 of the Convention for Communication, no. 1/2013, CED/C/10/D/1/2013.

55. See IACHR Annual Report Informe Annual 1986–1987, *A Study About the Situation of Minor Children of Disappeared Persons Who Were Separated from Their Parents and Who Are Claimed by Members of Their Legitimate Families*, Inter-Am. Ct. H.R., *Case of Molina Theissen*, Sentence of May 4, 2004, series C 106; and Committee on Human Rights, *Darwinia Rosa Mónaco de Gallicchio v. Argentina*, Comunicación no. 400/1990, UN doc. CCPR/C/53/D/400/1990, 1995.

56. For example, “Case of Godínez Cruz v. Honduras,” Merit, sentence of January 20, 1989, para. 158.

57. Cecilia Medina, “Los 40 años de la Convención Americana sobre Derechos Humanos a la luz de cierta jurisprudencia de la Corte Interamericana,” *Anuario de Derechos Humano* vol. 18 (Santiago, Chile: Brill, 2009).

58. Gabriella Citroni. “The Contribution of the Inter-American Court of Human Rights and Other International Human Rights Bodies to the Struggle against Enforced Disappearance,” in Ruiz-Chiriboga Haeck and Burbano Herrera, eds., *The Inter-American Court of Human Rights: Theory and Practice, Present and Future* (Cambridge: Intersentia, 2015), 379–403.

59. Ophelia Claude, “A Comparative Approach to Enforced Disappearances in the Inter-American Court of Human Rights and the European Court of Human Rights Jurisprudence,” *Intercultural Human Rights Law Review* 5 (2010): 407; and Cecilia Medina, *The American Convention on Human Rights, Crucial Rights and their Theory and Practice*, 2nd ed., (Cambridge: Intersentia, 2016), 63.

60. José Zalaquett, “Procesos de Transición a la Democracia y Políticas de Derechos Humanos en América Latina,” in IIDH, *Presente y Futuro de los Derechos Humanos*, 1998, summarizing the cases of Argentina, Chile, Uruguay, and El Salvador. Available at <https://www.rindhca.org/en/actualidad/videos-indh/los-derechos-humanos-pasado-presente-y-futuro>; Kathryn Sikkink. *From Pariah States to Global Protagonist: Argentina and the Struggle for International Human Rights* on behalf of the Center for Latin American Studies at the University of Miami (Cambridge: Cambridge University Press, 2008), 1–29.

61. Constitution of the Plurinational State of Bolivia (article 15, IV and 114.1); Political Constitution of Colombia (article 12); Constitution of the Republic of Ecuador (articles 66.3.c.; 80; 120.3 and 129.3); Constitution of the United Mexican States (articles 29 and 73.XXI.a); National Constitution of Paraguay (article 5) and Constitution of the Bolivarian Republic of Venezuela (article 45 and Third Transitional Provision). By Law 24.820 Argentina gave constitutional status to the Inter-American Convention on Forced Disappearance of Persons.

62. *Report of the Working Group on Enforced or Involuntary Disappearances—Addendum—Best practices on Enforced Disappearances in Domestic Criminal Legislation*, A/HRC/16/48/Add.3.

63. See for example, *Report of the Working Group on Enforced or Involuntary Disappearances Addendum Mission to Mexico*, A/HRC/19/58/Add.2, para. 13; and Committee on Enforced Disappearances, *Concluding Observations on the Report Submitted by Uruguay Under Article 29, Paragraph 1 of the Convention, Adopted by the Committee at Its Fourth Session, April 8–19, 2013*, para. 11; and *Observations on the Report Sub-*

mitted by Paraguay under Article 29, Paragraph 1 of the Convention, paras. 13 and 17, and Inter-American Court of Human Rights, *Case of Gómez Palomino*, para. 92ff.

64. *Ley General En Materia De Desaparición Forzada De Personas, Desaparición Cometida Por Particulares Y Del Sistema Nacional De Búsqueda De Personas*. In 2016, Peru adopted a law on search of disappeared persons, *Ley N° 30470 o Ley de búsqueda de personas desaparecidas durante el período de violencia 1980–2000*. <http://www.elperuano.com.pe/NormasElperuano/2016/06/22/1395654-1.html>

65. "General Comment on the Right to Recognition as a Person Before the Law in the Context of Enforced Disappearances," para. 2, in *Report of the Working Group on Enforced or Involuntary Disappearances*, A/HRC/19/58, 2011. Also, Peru, law no. 28.413; Argentina, law no. 24.321; Brazil, law no. 9.140/95; Chile, law no. 20377; Colombia, law no. 1531; México, article 21 of the General Law on Victims, and Uruguay law no. 17.894. See also, in México, the respective laws of the states of Coahuila, Chihuahua and Queretaro.

66. An important exception is the Philippines Republic Act 10535, *Anti-Enforced or Involuntary Disappearance Act of 2012*. <http://www.officialgazette.gov.ph/2012/12/21/republic-act-no-10535/>

67. Mark Berlin and Geoff Dancy, "The Difference Law Makes: Domestic Atrocity Laws and Human Rights Prosecutions," *Law and Society Review*, 51, no. 3 (2017): 532–66.

68. Naomi Roht-Arriaza, "After Amnesties are Gone: Latin American National Courts and the new Contours of the Fight Against Impunity," *Human Rights Quarterly* 37, no. 2 (2015): 341–82, at 342.

69. For example, Catalina Smulovitz, *The Past is Never Dead: Accountability and Justice for Past Human Rights Violations in Argentina*, in Mónica Serrano and Veselin Popovski, eds., *After Oppression: Transitional Justice in Latin America and Eastern Europe* (Tokyo, New York, Paris: United Nations University Press, 2012); and Catherine Collins, "Chile a más de dos décadas de justicia de transición," *Política. Revista de Ciencia Política* 51, no. 2 (2013): 78–79.

70. Ronald Gamarra, *Juzgar a un jefe de Estado: lecciones del proceso al expresidente Alberto Fujimori por delitos contra los derechos humanos* (Lima: Coordinadora Nacional de Derechos Humanos, 2010).

71. Open Society Justice Initiative, *Judging A Dictator: The Trial of Guatemala's Ríos Montt* (November 2013); and Hernando Salazar, *Primer general condenado por desaparición forzada en Colombia* (Bogotá: *BBC Mundo*, April 29, 2011). http://www.bbc.com/mundo/noticias/2011/04/110429_colombia_condena_general_corte_suprema_fp

72. Due Process of Law Foundation, *Digesto de Jurisprudencia Latinoamérica sobre crímenes de Derecho Internacional* (Institute for Peace, Washington, DC, 2000).

73. For earlier debates see José Zalaquett, "Confronting Human Rights Violations Committed by Former Governments: Applicable Principles and Political Constraints," *Hamline Law Review* 13 (1990): 623, 628; Juan E. Méndez, "Accountability for Past Abuses," *Human Rights Quarterly* 19, (1997): 255, 256; Carlos Nino, "The Duty to Punish Past Abuses of Human Rights Put into Context: The Case of Argentina," *Yale Law Journal* 100: 2619; and Jaime Malamud-Goti, "Transitional Governments in the Breach: Why Punish State Criminals?" 12 *Human Rights Quarterly* 12: 1.

74. See, for example, Committee on Enforced Disappearances, *Concluding Observations on the Report Submitted by Paraguay Under Article 29, Para. 1, of the Convention*, CED/C/PRY/CO/1, para. 17.

75. See Supreme Court of Chile, *Decision on Appeal of Inapplicability of Decree Law 2191*, August 24, 1996; Supreme Court of Justice of the Nation of Argentina, *Proceedings Instituted under Decree 280/84 of the National Executive Camps, Ramón Juan Alberto and Others*, Decision 310:1162, June 22, 1987; Sentence-97/21-98 Constitutional Chamber, May 2, 1988, *D., J.; M., N.; M., F.; M., O.; B., J. Complaint. Unconstitutional Law 15.848. Arts. 1, 2, 3 y 4*, F. n° 112/87, May 2, 1988; and *Decision of July 14, 1995, of the Tenth Criminal Chamber of the Superior Court of Lima, Peru*. The most recent example of this trend is the decision of the Supreme Federal Court of Brazil on April 28, 2010, Accusation of breach of fundamental precept n° 153.

76. The first IACHR cases were on Argentina, Uruguay, and El Salvador in 1992 and several years later, the Court with the case of Barrios Altos IACHR, Report 26/92. Case 10.287. Las Hojas Massacre. El Salvador. September 24, 1992; Informe 28/92. Cases 10.147, 10.181, 10.240, 10.262, 10.309 and 10.311. Argentina. October 2, 1992; Report 29/92. Cases 10.029, 10.036, 10.145, 10.305, 10.372, 10.373 and 10.375, Uruguay, October 2, 1992. Inter-Am. Ct. H.R. Case of Barrios Altos v. Peru. Merits. Sentence of March 14, 2001. Series C No. 75, para. 41ff.

77. *Resolución de la Corte de Constitucionalidad de fecha 7 de julio de 2009, Expediente No. 926-2008*. Constitutional Court of Peru, Sentence of December 9, 2004, File No. 2798-04-HC/TC, Case of Gabriel Orlando Vera Navarrete; Supreme Court of Argentina, Sentence de August 24, 2004, cause A.533.XXXVIII, Arancibia Clavel, Enrique Lautaro, et al. *s/ homicidio calificado y asociación ilícita* -Cause No. 259-; Constitutional Court of Bolivia, Sentence of November 12, 2001, Case of José Carlos Trujillo; Supreme Court of Chile, Pleno, Sentence of August 8, 2000, Case for removal of immunity of Pinochet; Constitutional Court of Colombia, Sentence C-580/02, of July 3, 2002; Supreme Court of Justice of the Nation of México, Thesis: P.J. 87/2004; Supreme Court of Uruguay, Sentence of April 17, 2002, Case of Gavasso and Supreme Court of Venezuela, Sentence of August 10, 2007, Exp. No. 06-1656, Appeal Case Review—Marco Antonio.

78. Roht-Arriaza, "After Amnesties are Gone."

79. See Trial International, "Christian Von Wernich." <https://trialinternational.org/latest-post/christian-von-wernich/>; and TELESUR, "28 Ex-Officials of Argentina's Military Dictatorship Sentenced." <http://www.telesurtv.net/english/news/In-Landmark-Ruling-28-Former-Officials-of-Argentinas-Military-Dictatorship-Sentenced-20170726-0039.html>

80. Roht-Arriaza, "After Amnesties are Gone."

81. Associated Press, "Peru Court Orders Ex-President Fujimori Freed From Prison," NPR, March 18, 2022. <https://www.npr.org/2022/03/18/1087442224/peru-court-orders-ex-president-fujimori-freed-from-prison>

82. Initiated in cases of disappearances, such as "Argentina Forti v. Suarez-Mason," *U.S. Circuit Court for the Northern District of California*, 694 F. Supp 707, 1988. Another case of enforced disappearance in Latin America is "Xuncax v. Gramajo" *U.S. District Court for Massachusetts*, 886 F. Suat 162, 1995. And see also, "Daimler AG v. Bauman," 134 S. Ct. 746, 761-62, 2014, (rejecting a claim on

corporate complicity in forced disappearances of persons in Argentina during the dictatorship); and Manuel Marraco, "La Audiencia Nacional condena a Scilingo a 640 años de cárcel por delitos de lesa humanidad," *El Mundo*, April 20, 2005.

83. See Naomi Roht-Arriaza, "After Amnesties are Gone," 8ff, 208ff. *Human Rights Quarterly* 37, no. 2 (May 2015).

84. See Redress, *Universal Jurisdiction in Europe: Criminal Prosecutions in Europe Since 1990 for War Crimes, Crimes Against Humanity, Torture, and Genocide*, 1999. <https://redress.org/wp-content/uploads/2018/01/G.-June-1999-Universal-Jurisdiction-in-Europe.pdf>

85. See Ellen Lutz and Kathryn Sikkink, "The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America," *Chicago Journal of International Law* 2, no. 1, art. 3 (2001); and Naomi Roht-Arriaza, *The Pinochet Effect: Transnational Justice in the Age of Human Rights* (Philadelphia: University of Pennsylvania Press, 2005).

86. David Pion-Berlin. "The Pinochet Case and Human Rights Progress in Chile: Was Europe a Catalyst, Cause or Inconsequential?" *Journal of Latin American Studies* 36 (2004): 479-505; and Juan Guzmán Tapia, "En el borde del mundo: memorias del juez que procesó a Pinochet," *Editorial Anagrama* 70 (2005).

87. Javier Chinchón, *El tratamiento judicial de los crímenes de la Guerra Civil y el franquismo en España: una visión de conjunto desde el derecho internacional*, no. 67 (Bilbao, Spain: Universidad de Deusto, 2012), 91.

88. Rosales Herrera and Eduardo Alfonso, *El juicio del siglo: Augusto Pinochet frente al derecho y la política internacional* (México: Plaza y Valdés, 2007); Javier Dondé-Matute. "International Criminal Law Before the Supreme Court of México," *International Criminal Law Review* 10, no. 4 (2010): 572-75, at 571.

89. *Buenos Aires Herald*, "Landmark, Human Rights Convictions for Former Judges," July 28, 2017. <http://www.buenosairesherald.com/article/226413/landmark-human-rights-convictions-for-former-judges>

90. Javier Couso, Alexandra Huneus, and Rachel Sieder, *Cultures Of Legality: Judicialization and Political Activism in Latin America* (Cambridge: Cambridge University Press, 2010).

91. IACHR, "The Right to Truth in the Americas," OEA/Ser.L/V/II.152 Doc. 2, 2014.

92. Peru, Judgment of March 18, 2004, File No. 2488-2002-HC/TC Piura, Case Genaro Villegas Namuche; Colombia, Constitutional Court, see, e.g., Judgment T-249/03, 2003 and Supreme Court of Justice, Criminal Chamber, Decision on appeal, of July 11, 2007, Case Orlando César Caballero Montalvo, *Tribunal Superior de Antioquia*; El Salvador, Supreme Court of Justice, Constitutional Chamber, Judgment 665-2010 of February 5, 2014, Argentina, Supreme Court of Justice, Urteaga Facundo Raul C/ Estado Nacional—*Estado Mayor Conjunto de La FFAA S/Amparo Ley 16986* and México, Second Chamber, Supreme Court of Justice, Amparo en Revisión 934/2016, 29 March, 2017.

93. Priscilla B. Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions*, vol. 21 (Oxfordshire: Routledge, 2002); Naomi Roht-Arriaza, "Truth Commissions and Amnesties in Latin America: The Second Generation," *American Society of International Law* 92 (1998): 313-15.

94. See Silvia Dutrént Bielous, "Los Equipos de Antropología Forense en América Latina: Coadyuvantes en el Camino de la Verdad y la Justicia," *Publicación de la Red Universitaria sobre Derechos Humanos y Democratización para América Latina*, year 2, n° 3, April 2012, Buenos Aires, Argentina.
95. Stover, "The Missing in the Aftermath of War," 850.
96. Victor B. Penchaszadeh, "Ethical, Legal, and Social Issues in Restoring Genetic Identity after Forced Disappearance and Suppression of Identity in Argentina," *Journal of Community Genetics* 6, no. 3 (2015): 207-13.
97. Veronica Hinestroza et al., *Comisiones de búsqueda en América Latina. Una apuesta extraordinaria por la integralidad en la investigación de las desapariciones*, 2021. <https://www.identificacionhumana.mx/comisiones-de-busqueda-en-america-latina/>; see also the National Commission for the Search of children who disappeared during the internal armed conflict in El Salvador and Argentina, National Commission for the Right to Identity, see Disposition 1328/92 of the Human Rights Under-Secretariat of the Interior Ministry, Resolution 1392/98 of the Ministry of Interior and Law 25.457.
98. See International Commission on Missing Persons, *Missing Persons from the Armed Conflict of the 1990s: A Stocktaking*. https://www.icmp.int/wp-content/uploads/2014/12/StocktakingReport_ENG_web.pdf
99. Inter-American Commission on Human Rights, *Office of the Special Rapporteur for Freedom of Expression, The Right to Access to Public Information in the Americas: Inter-American Standards and Comparison of Legal Frameworks*, 2012, para. 355.
100. *Código de Procedimientos Penales de Guatemala*, article 467.2.a.
101. Sévane Garibian, "Ghosts Also Die: Resisting Disappearance through the 'Right to the Truth' and the *Juicios por la Verdad* in Argentina," *Journal of International Criminal Justice* 12, no. 3 (2014): 515-38.
102. Martin Imbleau, "Initial Truth Establishment by Transitional Bodies and the Fight Against Denial," in William A. Schabas and Shane Darcy, eds., *Truth Commissions and Courts: The Tension Between Criminal Justice and the Search for Truth*, vol. 15, no. 1-2 (Berlin, Heidelberg: Springer, 2007).
103. Elizabeth Lira, "Chile, Desaparición Forzada: 1973-2015," in Miguel Giusti, Gustavo Gutiérrez, Elizabeth Salmón, eds., *La Verdad nos Hace Libres. Sobre las relaciones entre Filosofía, Derechos Humanos, Religión y Universidad* (Lima, Perú: Fondo Editorial, Universidad Católica de Perú, 2015), 550.
104. Claudia Nash Rojas and David Valeska, *Las Reparaciones ante la Corte Interamericana de Derechos Humanos (1988-2007)* (Santiago, Chile: Universidad de Chile, Facultad de Derecho, Centro de Derechos Humanos, 2009).
105. Pablo De Greiff, *The Handbook of Reparations*, (Oxford: Oxford University Press, 2006); Ruth Rubio-Marín, ed., *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (Cambridge, England: Cambridge University Press, 2009).
106. M. Brinton Lykes and Ramsay Liem, "Human Rights and Mental Health in the United States: Lessons from Latin America," *Journal of Social Issues* 46 (1990): 151, 159; *Consenso mundial de principios y normas mínimas sobre trabajo psicosocial en procesos de búsqueda e investigaciones forenses para casos de desapariciones forzadas, ejecuciones arbitrarias o extrajudiciales*, (a work which emerged and was developed fundamentally from a Latin American initiative). <http://cooperaciocatalana.gencat>.

cat/web/.content/continguts/02serveis/05publicacions/04informes_estudis_guies/consens_mundial/normas_minimas.pdf

107. See *Sitios de la Memoria en América Latina*, <http://www.sitiosdememoria.org>; and, for example, the poem "Desaparecidos," by Mario Benedetti (Uruguay) or "Los escogidos," by Patricia Nieto (Colombia). See also, Jorge Ladino Bayona Gaitán, "El arte de la desaparición forzada en dos novelas colombianas," *Espéculo: Revista de Estudios Literarios* 46 (2010): 62; Lancelot Cowie, "Los desaparecidos y la represión de estado en la narrativa argentina actual," *Revista del CESLA*, 16 (2013): 195–205. In Ecuador, the documentary *Con mi corazón en Yambo*, about the disappearance of the Restrepo brothers during the 1984–1988 period of León Febres-Cordero de María Fernanda Restrepo Arismendi or *NN: Sin identidad* by Héctor Gálvez in Perú. Also, Verena Berger, "La búsqueda del pasado desde la ausencia: Argentina y la reconstrucción de la memoria de los desaparecidos en el cine de los hijos," *Edición digital a partir de Quaderns de Cine: Cine i memòria històrica* 3 (2008): 23–36. https://www.researchgate.net/profile/Verena-Berger-2/publication/268254428_La_búsqueda_del_pasado_desde_la_ausencia_Argentina_y_la_reconstrucción_de_la_memoria_de_los_desaparecidos_en_el_cine_de_los_hijos/links/54fadac10cf23e66f0332001/La-búsqueda-del-pasado-desde-la-ausencia-Argentina-y-la-reconstrucción-de-la-memoria-de-los-desaparecidos-en-el-cine-de-los-hijos.pdf; María Noela Ibáñez, "El ojo que espía por las grietas del pasado. Una aproximación al estudio sobre el tratamiento de la memoria y la historia recientes en el cine argentino (1983–2009)," *Passagens. Revista Internacional de História Política e Cultura Jurídica* 4, no. 3 (2012): 384–400. https://www.academia.edu/32339327/El_ojo_que_esp%C3%ADa_por_las_grietas_del_pasado_0.pdf; in photography, see the work of Gustavo Germano, *Ausencias on Argentina and Brazil* in <http://www.gustavogermano.com/>, or in Peru the photographic work of Ricardo Wiesse on the execution and disappearance of students from the University of La Cantuta <http://www.micromuseo.org.pe/publicaciones/itinerarios/itinerarios6.html>; Ana Longoni, "Fotos y siluetas: dos estrategias en la representación de los desaparecidos," comp. by Emilio Crenzel, *Los desaparecidos en la Argentina. Memorias, representaciones e ideas (1983–2008)* (2010): 35–57; María Elena Rodríguez Sánchez, "La fotografía y la representación de la memoria de las víctimas de desaparición en Colombia," *Revista Sans Soleil* 4 (2012): 216–23. https://www.academia.edu/32339327/El_ojo_que_esp%C3%ADa_por_las_grietas_del_pasado_0.pdf; Diego A. Mazorra, *Fotografía Y Memoria: Imágenes Y Lugares En La Fotografía De Los Desaparecidos En Colombia* [Photography and memory: Images and places in the photography of the missing people in Colombia] (Universidad Externado de Columbia: Revista Comunicación, 2010).

108. For example, Alfredo Boccia Paz, Rosa Palau, and Osvaldo Salerno, *Paraguay: Los Archivos del Terror, Los Papeles que Resignificaron la Memoria del Stronismo* (Asunción, Paraguay: Centro de Documentación y Archivo para la Defensa de los Derechos Humanos, 2007); or Kirsten Weld, *Paper Cadavers: The Archives of Dictatorship in Guatemala* (Durham, NC: Duke University Press, 2014).

109. See, for example, Catalina Uprimmy Salazar, "La memoria en la Ley de Víctimas de Colombia: derecho y deber," *Anuario de Derechos Humanos* 8 (2012).

110. See *Report of the Working Group on Enforced or Involuntary Disappearances Addendum Mission to Chile*, A/HRC/22/45/Add.1, January 29, 2013, para. 49–50; *Report of the Working Group on Enforced or Involuntary Disappearances on Its mis-*

sion to Peru, A/HRC/33/51/Add.3, July 8, 2016, para. 63–66; Report of the Working Group on Enforced or Involuntary Disappearance, Addendum Mission to Argentina, A/HRC/10/9/Add.1, January 5, 2009, para. 65; Report of the Working Group on Enforced or Involuntary Disappearances on Its Mission to Sri Lanka, A/HRC/33/51/Add.2, 64; and Report of the Working Group on Enforced or Involuntary Disappearances on Its Mission to Turkey, A/HRC/33/51/Add.1, 51. For examples of memory work in Chile, see Steve J. Stern, *Remembering Pinochet's Chile* (Durham, NC: Duke University Press, 2004); Elizabeth Jelin, *Los trabajos de la Memoria* (Madrid, Spain: Siglo XXI editors, 2002).

111. See, for example, Elizabeth Jelin, "La política de la memoria: El movimiento de derechos humanos y la construcción democrática en la Argentina," in *Juicio, castigos y memoria: Derechos humanos y justicia en la política argentina*, (Buenos Aires: Nueva Visión, 1995); and Kathryn Sikkink and Margaret Keck, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998).

112. At the risk of leaving crucial organizations unmentioned, see, for example, Association of Relatives of the Disappeared and Victims of Human Rights Violations (AFADEM), México; Relatives of the Disappeared and Detained for Political Reasons, Argentina; Association of Relatives of Disappeared Detainees (AFDD), Chile; ASOFAM, Bolivia; Association of Relatives of Disappeared Detainees (ASFADDES), Colombia; Committee of Relatives of Detained—Disappeared of Honduras (COFADEH); CODEFAM, El Salvador; Mutual Support Group (GAM), Guatemala; Mothers and Relatives of the Disappeared, Uruguay; Torture Never Again, Brazil; National Association of Families of the Kidnapped, Detained and Disappeared of Peru (Anfasep).

113. See *Historie de la FEMED* at <http://www.disparitions-euromed.org/>

114. Americas Watch, *The Vicaría de la Solidaridad in Chile, An Americas Watch Report*, December 1987, at 3, 7; and Manuel Bastías Saavedra, *Sociedad civil en dictadura: relaciones transnacionales, organizaciones y socialización política en Chile (1973–1993)* (Santiago, Chile: Ediciones Universidad Alberto Hurtado, 2013); Gülsüm Baydar and Berfin İvegen, "Territories, Identities, and Thresholds: The Saturday Mothers Phenomenon in Istanbul," *Signs: Journal of Women in Culture and Society* 31, no. 3 (2006): 689–715.

115. Sikkink and Keck, *Activists Beyond Borders*.

116. Ronald Gamarra, the Mothers of ANFASEP, *Rosario: Memoria indómita*, directed by Shula Eremberg (2013) (<http://derechoshumanos.pe/2008/09/a-las-madres-de-anfasep/>); see *Yanette Bautista: 27 años de lucha* at <http://www.pazconmujeres.org/pg.php?pa=3&id=1bd45f2925d82a0143d123b59fcafa9c&t=Yanette%20Bautista:%2027%20a%F1os%20de%20lucha>) for Sola Sierra Henríquez, see <http://www.educarchile.cl/ech/pro/app/detalle?GUID=04dd8ea8-d673-474e-bd7c-2da8584102ac&ID=137092&FMT=519>; for Villaflor see <http://www.pagina12.com.ar/diario/elpais/subnotas/60225-19937-2005-12-09.html>. For de Nativi, see http://www.1325mujerestejiendolapaz.org/otrsem_bertha.html; for Farfán, see *The Time* <http://time.com/3822942/aura-elena-farfan-2015-time-100/>) For women in other Latin American countries see, for example, Raquel Andrea Vera Salerno and Rosa M. Palau Aguilar, *Luchadoras de Ayer en la Dictadura. Luchadoras de Hoy en Democracia and Rago, Margareth, A coragem feminina da verdade: mulheres na ditadura militar no*

Brasil, at 523, both in Assy, Bethania; Melo, Carolina de Campos; Dornelles, João Ricardo; Gomez, José Maria (Org.), *Direitos Humanos, justiça, verdade e memória*, (Rio de Janeiro: Lumen Juris, 2012).

117. Radhika Coomaraswamy makes the same argument on the general framework and local adaptations of international law of human rights in general in Radhika Coomaraswamy, "Women and Children: The Cutting Edge of International Law," *American University International Law Review* 30 (2015): 50–51, 62.

118. See similarly, in relation to genocide, Susanne Karstedt, "Contextualizing Mass Atrocity Crimes: Moving Toward a Relational Approach," *Annual Review of Law and Social Science* 9 (2013): 383–404.

119. For the list of professions and occupations of those who disappeared in Argentina in Proyecto Desaparecidos, *Listas de Detenidos-Desaparecidos y Asesinados en Argentina*, <http://www.desaparecidos.org/arg/victimas/listas/#profe>; for rural Peru and Fujimori, see *Comisión de la Verdad y la Reconciliación, Informe Final*, <http://www.cverdad.org.pe/ifinal/index.php>; for Guatemala, see Pinzón González and Mónica Esmeralda, "Psychosocial Perspectives on the Enforced Disappearance of Indigenous Peoples in Guatemala in Missing Persons," in Derek Congram, ed., *Multidisciplinary Perspectives on the Disappeared* (Toronto: Canadian Scholar's Press, 2016). Esmeralda's chapter explains the particular impact of "enforced disappearances in an indigenous community in Guatemala"; for El Salvador, see *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, <https://www.usip.org/sites/default/files/file/ElSalvador-Report.pdf>; for Colombia see, *Inter-American Commission on Human Rights, Truth, Justice and Reparation: Fourth Report on Human Rights Situation in Colombia*, <http://www.oas.org/en/iachr/reports/pdfs/Colombia-Truth-Justice-Reparation.pdf>; for Uruguay, see *Informe de Madres y Familiares de Desaparecidos, A Todos Ellos*, https://desaparecidos.org.uy/wp-content/uploads/2015/07/A-todos-ellos_.pdf

120. Wasana Punyasena, "The Façade of Accountability: Disappearances in Sri Lanka," *Boston College Third World Law Journal* 23 (2003): 115.

121. Sylvia Karl, "Rehumanizing the Disappeared: Spaces of Memory in México and the Liminality of Transitional Justice," *American Quarterly* 66, no. 3 (2014): 727–48, 733; and Howard M. Kleinman, "Disappearances in Latin America: A Human Rights Perspective," *NYU Journal of International Law and Politics* 19 (1986–1987): 1033–42.

122. Shaery Yazdi-Roschanack, "The Local Politics of the Lebanese Disappeared," *Middle East Report* 262 (2012): 2–5 (explaining the phenomenon of enforced disappearances carried out by Syrian forces in Lebanon and the dynamic of the relatives' efforts to find their loved ones in Syria and Lebanon); and Caroline L. Payne and M. Rodwan Abouharb, "The International Covenant on Civil and Political Rights and the Strategic Shift to Forced Disappearance," *Journal of Human Rights* 15, no. 2 (2016), 163–88 (arguing that increased international scrutiny could move their repressive techniques from extrajudicial executions to enforced disappearances as they are more difficult to prove). See also, Due Process of Law Foundation, *Victims Unsilenced: The Inter-American Human Rights System and Transitional Justice in Latin America*, 2007. <http://www.dplf.org/en/resources/inter-american-system-transitional-justice-0>

123. See for example, Francesca Lessa, et al., "Persistent or Eroding Impunity?"

The Divergent Effects of Legal Challenges to Amnesty Laws for Past Human Rights Violations," *Israel Law Review* 47, no. 1 (2014): 105-31.

124. Sally E. Merry. "Transnational Human Rights and Local Activism: Mapping the Middle," *American Anthropologist* 108, no. 1: 38-51. Richard A. Wilson, "Afterword to 'Anthropology and Human Rights in a New Key': The Social Life of Human Rights," *American Anthropologist* 108, no. 1: 77-83.

125. Fernando Ferrándiz, "De las fosas comunes a los derechos humanos: El descubrimiento de las desapariciones forzadas en la España contemporánea," *Revista de antropología social* 19 (2010): 163.

126. Ferrándiz, "De las fosas comunes a los derechos humanos," 175, 177.

127. Adam Rosenblatt, "Missing Persons: Multidisciplinary Perspectives on the Disappeared," in Derek Congram, ed., *Human Rights Quarterly* 39 no. 3 (2017): 758-763, 760.

128. See particularly the works of Sally Engle Merry and Mark Goodale, eds., *The Practice of Human Rights: Tracking Law Between the Global and the Local* (Cambridge: Cambridge University Press, 2007); and "Vernacularization in Action: Using Global Women's Human Rights Locally" 9, no. 4, Special Issue of *Global Networks*, co-ed. by Peggy Levitt. (2009).

129. IACHR, *Justice and Social Inclusion: The Challenges of Democracy in Guatemala*, OEA/Ser.L/V/II.118, doc. 5 rev. 1, December 29, 2003, Original: Spanish (explaining how justice and reparation efforts in Guatemala are less effective in the case of indigenous peoples due to structural racism among other factors).

130. Jay D. Aronson, "The Strengths and Limitations of South Africa's Search for Apartheid-Era Missing Persons," *International Journal of Transitional Justice* 5, no. 2 (2011): 262-81, at 271 (explaining that the Missing Persons Task Team in South Africa only investigates cases that are explicitly "political" in nature).

131. See Margaret Blaauw and Virpi Lähteenmäk, "Denial and Silence or Acknowledgement and Disclosure," *International Review of the Red Cross* 84, no. 848 (2002): 767-84; and *Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka, A/HRC/33/51/Add.2*, para. 70.

132. Lasse Schuldt, "Southeast Asian Hesitation: ASEAN Countries and the International Criminal Court," *German Law Journal* 16 (2015): 75.

133. Jeevasuthan Subramaniam, Nur Mohammad Majumder, Zulkarnain A. Hatta, and Abul Fozol Muhammod Zakaria, "Implications of Enforced Disappearances on Women-Headed Families in the Northern Province, Sri Lanka," *International Journal of Humanities and Social Science* 4, no. 4 (2014): 236-43.

134. *Report of the Working Group on Enforced or Involuntary Disappearances Addendum Mission to Nepal*, December 6-14, 2004, para. 25 (describing those disappearances are carried out both by the State and by insurgents).

135. Naomi Kinsella and Soren Blau, "Searching for Conflict Related Missing Persons in Timor-Leste: Technical, Political, and Cultural Considerations," *Stability: International Journal of Security and Development* 2, no. 1 (2013).

136. See for example, Fred Ross, III and Jae Chun Won, "North Korean Kidnappers: A Response to Illegal Abductions by the Democratic People's Republic of Korea before the Working Group on Enforced and Involuntary Disappearances," *Regent Journal of International Law* 9 (2012): 277.

137. Alberto L. Zuppi, "Swinging Back and Forth Between Impunity and Impeachment: The Struggle for Justice in Latin America and the International Criminal Court," *Pace International Law Review* 19 (2007): 195.

138. "Question Of The Human Rights Of All Persons Subjected To Any Form Of Detention Or Imprisonment, In Particular: Question Of Enforced Or Involuntary Disappearances," *Report of the Working Group on Enforced or Involuntary Disappearances Addendum Report on the Visit to Peru by Two Members of the Working Group on Enforced or Involuntary Disappearances* E/CN.4/1986/18/Add.1, June 17-22, 1985, para. 35-61 (explaining how enforced disappearances took place in Ayacucho and describing the socio-economic context and different actors in that part of Peru).

139. Tilman Blumenstock, "Legal Protection of the Missing and Their Relatives: The Example of Bosnia and Herzegovina," *Leiden Journal of International Law* 19, no. 3 (2006): 773-93; and Grażyna Baranowska, "Shedding Light on the Fate of the Disappeared?" *Committee on Missing Persons in Cyprus, International Journal of Rule of Law, Transitional Justice and Human Rights* Year 3, Vol. 3, (Sarajevo 2012). <http://ssrn.com/abstract=2216767>

140. Paola Carozza, "From Conquest to Constitutions: Retrieving a Latin American Tradition of the Idea of Human Rights," *Human Rights Quarterly* 25 (2003): 281-300, at 283.

141. Emily Braid and Naomi Roht-Arriaza, "De Facto and De jure Amnesty Laws," *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives* 182 (2012).

142. *Report of the Working Group on Enforced or Involuntary Disappearances Addendum Mission to Mexico*, December 20, 2011, A/HRC/19/58/Add.2.

143. Frey, "Los Desaparecidos," 52.

144. Roht-Arriaza, "After Amnesties are Gone," 343.

145. Kathryn Sikkink and Carrie Booth Walling, "Argentina's Contribution to Global Trends in Transnational Justice," Naomi Roht-Arriaza and Javier Mariezcurrena, eds., *Transitional Justice in the Twenty-first Century: Beyond Truth and Justice* (New York: Cambridge University Press, 2006), 301.