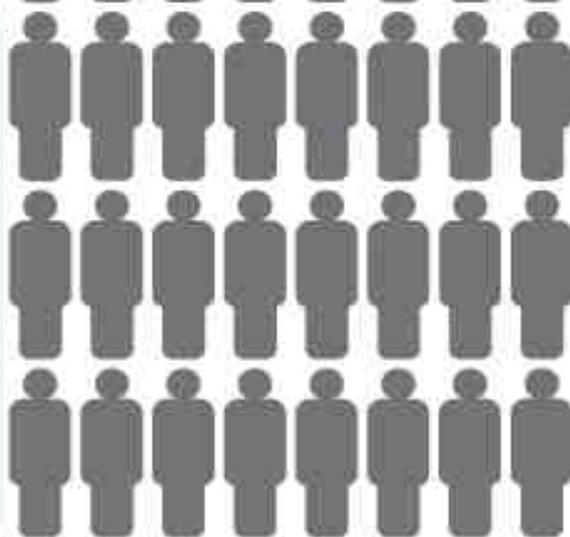


**CONVENTION**  
*for the* **PROTECTION**  
*of* **ALL PERSONS**  
*from* **ENFORCED**  
**DISAPPEARANCE**



**Panel Discussion held on May 22<sup>nd</sup>, 2008**

**The Convention for the Protection  
of all persons from  
Enforced Disappearance.  
It's important. It's urgent.**

**Welcome by P.R. of Argentina, Ambassador Jorge Argüello**

**Panelists**

- **Ambassador Rodolfo Ojea Quintana**, Undersecretary of Coordination and Cooperation, Ministry of Foreign Affairs, International Trade and Worship of Argentina
- **Estela de Carlotto**, Abuelas de Plaza de Mayo
- **Yasmin Sooka**, Foundation for Human Rights of South Africa
- **Santiago Corcuera**, Chairperson of the Working Group on enforced or involuntary disappearances of the Human Rights Council
- **Caroll Bogert**, Human Rights Watch
- **Gustavo Santaolalla**, Composer and musician

**Moderator**

**Juan Mendez**, International Center for Transitional Justice, and first Special Adviser on the Prevention of Genocide 2004-2006

**Messages of support from UNHCHR Louise Arbour and from Amnesty International on behalf of ICAED**



The Permanent Mission of Argentina



The Office of the High Commissioner  
for Human Rights

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Welcoming remarks by Ambassador Jorge Argüello, Permanent Representative of Argentina to the UN**

I would like to welcome you all to this panel discussion on ways forward for the prompt entry into force and full implementation of the Convention on Enforced Disappearance.

I am honored to see my colleagues from interested States, representatives from the UN system, representatives of human rights organizations and from prestigious universities, and private citizens that have been drawn to exchange views on this important issue.

Only yesterday, Argentina was elected for a new term at the Human Rights Council, and today we set to work with renewed energy in promoting the respect and protection of all human rights for all.

73 Member States have signed this Convention so far, and together with Argentina; Albania, Mexico and Honduras have completed their ratification process and are Parties to the Convention. I believe France, Brazil, Chile and Spain have announced they are near completing that process and becoming parties.

I am persuaded that the entry into force and full implementation of this Convention will be a decisive step towards achieving that goal, both in the letter of the law and in the realities each of our societies face.

Thank you very much, to each one of you, for coming and joining us this evening.

New York, 22nd May 2008

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Ambassador Rodolfo Ojea Quintana, Undersecretary of Coordination and Cooperation, Ministry of Foreign Affairs, International Trade and Worship of Argentina\***

Distinguished colleagues and representatives of human rights organizations. Ladies and gentlemen,

It is a great honor and a personal satisfaction to take part of this meeting organized by Argentina to promote ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. I must say that our Minister of Foreign Affairs was going to come for this event, given its importance, but unfortunately he had to travel to Brazil due to a series of meetings that had not been previously scheduled. But I bring his regards for all of you.

This event takes place in the year of the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights in 1948, a significant event of the postwar period, and a starting point for a monumental process of legal development for the protection and protection of human rights. Our choice of the United Nations as the forum for this meeting is not by chance, but implies our explicit recognition of the efforts undertaken by this Organization to foster this development and to consolidate its position as a uniting factor of the international community.

Thanks to the joint efforts of the United Nations, States, NGOs and the civil society as a whole, these past sixty years have been particularly fruitful for the establishment of standards for protection. Over the last years we can also observe the emergence of initiatives that increasingly tend to improve their implementation, thus reducing the breach between what should be and what, regrettably, is happening still in every continent. These initiatives complement the traditional need to commit the international accountability of the State through measures to improve prevention, ensure reparations for the victims and combating impunity by imposing criminal national and international sanctions on the perpetrators.

The International Convention against Enforced Disappearance, adopted by the UN General Assembly on December 20th, 2006, recognizes enforced disappearance as a crime against humanity, while it reaffirms the right to the truth, to justice and to reparations. In this way, it is a new step within the new trend that combines the development of the legal standard with effective measures for prevention, protection and

sanction, including –among other elements- a novel mechanism for ‘International Habeas Corpus’ to search for disappeared persons, which will be conducted by the Committee on Enforced Disappearance.

The defense of human rights and the fight against impunity are core claims in our society, and a fundamental pillar of our Administration. After over two decades of uninterrupted democracy, all three powers of the State have adopted coinciding decisions to guarantee the four pillars in the fight against impunity and for the full realization of human rights: truth, memory, justice and reparations. The controversial bills that granted pardons or amnesties to those guilty of the grave human rights violations committed during the military dictatorship of the late 70’s in Argentina have been declared unconstitutional, and later annulled. Many judicial proceedings have been reopened. Legal obstacles to extradition of the criminals have been removed by the Executive so that the proceedings can continue as they should before the Courts.

This new internal paradigm is in correspondence with our foreign policy, which today is centered on the defense of human rights as a main axis. Argentina was actively involved in the drafting and adoption of the Convention against Enforced Disappearance, atrocities singularly emblematic of the State terrorism rampant in Argentina and other countries in the region in the 70’s. In Argentina, approximately 30,000 persons were detained-disappeared as the result of actions by the Armed and Security Forces. Their families and friends, after their kidnapping, were left in uncertainty and distress. And terror, paralyzing terror, spread over the society as a whole.

Nevertheless, enforced disappearance is not an exclusively Latin American phenomenon, and its combat demands a global response. The Convention adopted in 2006 is the outcome of arduous debate and negotiation, and the result is a reaffirmation of the consensus of the international community as a whole on the need to combat this repressive methodology. The draft came to be after decades of labor by the international human rights movement that informed the debates in the Working Group created to that end in the UN Commission on Human Rights. My Government, together with France, was one of the main promoters of the proposal that resulted in the unanimous adoption of this text by the UN General Assembly in 2006.

Argentina was the first country in the World to sign the Convention, and the first country in America to ratify it in February 2007. And we have recently presented the pertinent Declaration accepting the competence of the Committee on Enforced Disappearance, since this is a fundamental mechanism to ensure the effectiveness of the provisions of the Convention.

In ratifying the Convention, Argentina pledged to lead a campaign to promote its entry into force. That is why we have come here today, to call on States, particularly in our region but in all regions, to become parties to this instrument that is fundamental for the protection of human rights. The adoption of the Convention was a first step to that end, and we expect it must be followed by its widespread ratification and implementation that allow for its rapid entry into force and effective application.

Thank you,

\* Undersecretary of Coordination and Cooperation, Ministry of Foreign Affairs, International Trade and Worship of Argentina. Amb. Ojea Quintana is a lawyer and was appointed Undersecretary in February 2006. Along his career, he has acted as the legal adviser of the Ecumenical Human Rights Movement, of the National Senate of Argentina, the office of the Vice Chair of the House of Representatives and other organisms, unions and professional associations. As a lawyer, he has presented cases before the Inter American Human Rights Commission of the Organization of American States. In the academic field, he was a professor in the first Human Rights Latin American Chair at the University of Lomas de Zamora.

Amb. Ojea Quintana was one of the drafters of the Historical Reparations Act addressing persons who disappeared or were killed during the *de facto* military government in Argentina, as well as the bills on historical reparations for those exiled during that time, and the sons and daughters born in captivity or who were deprived of their identity at that time.

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Estela Barnes de Carlotto, President of Grandmothers of Plaza de Mayo\***

On behalf of the Association of Grandmothers of Plaza de Mayo, which I chair, I would like to thank you for the invitation to present our views in the United Nations and in such prestigious company, on the Convention for the Protection of all persons from Enforced Disappearance.

The countries in Latin America which, like Argentina, have suffered one of the most heinous violations of human rights in a systematic manner over the military dictatorships, have felt the need to come together to rescue the disappeared alive.

Thus, in January 1981 we were called to San Jose de Costa Rica and, in November of that year, to Caracas, Venezuela, to constitute a non-governmental organization, independent from any political or religious affiliation, inspired by a profound democratic conviction shared by the peoples of the Latin American continent.

That was the birth of the Latin American Federation of Associations of Relatives of Disappeared Persons (FEDEFAM), with Grandmothers of Plaza de Mayo as a founding member to this day.

Since impunity has been an essential characteristic of the practice of enforced disappearance, the families came to the painful and overwhelming realization that there was no answer to our claims, and we came before international instances in the firm belief that we needed to obtain an adequate international legal instrument.

We made progress, understanding the gravity of this violation of several fundamental rights: the right to safety, to integrity, to the recognition of legal status, to freedom and to be free from torture or cruel, inhuman or degrading treatment. In the cases where the fate of the disappeared is death, enforced disappearance constitutes a violation of the right not to be arbitrarily deprived of life.

In the '80s, some initiatives achieved resolutions which expressed the international rejection of enforced disappearance in general, or the determination of responsibility in individual cases. The General

Assembly of the OAS condemned disappearance in 1983 and 1984, and declared its massive practice to be a crime against humanity.

In 1980, the UN Commission on Human Rights created the Working Group on enforced or involuntary disappearances, with a fundamentally humanitarian mandate. The parliamentary assembly of the Council of Europe condemned enforced disappearance in 1984.

In 1981, a first draft was presented in the French Senate by the Institute of Human Rights of the Paris Bar, recognized to be the first International Conference, with the participation of the writer Julio Cortazar and members of organizations in Argentina and other Latin American countries.

In 1992, FEDEFAM presented a second draft of International Convention. Other presentations followed and in 1992, the UN adopted the Declaration on the Protection of All Persons from Enforced Disappearance.

Achievements such as the creation of the Working Group in 1980 and the adoption in 1992 of the UN Declaration have been vital steps, but unfortunately not enough in the struggle of the international community. Cases in the so-called past have not been solved and, when the present cases come up, States have failed to adopt the necessary prevention, protection and control measures. Enforced disappearance is still practiced in Latin America and other continents.

Among the main causes of the spreading of enforced disappearance, one is doubtlessly the lack of legislation criminalizing its practice, together with the legal and de facto impunity historically associated with this heinous crime in the affected countries. As a result, multiple principles and rights recognized to the victims by the Universal UN system have been violated, among them the right to an effective remedy, the right to the Truth and a prompt, impartial and independent justice.

States must understand the urgent need for this Convention, and must therefore adopt preventive steps such as:

- incorporating this crime in national criminal legislation
- adopting administrative and judicial prevention measures
- establishing effective mechanisms for intervention and investigation
- prosecuting and punishing the authors in any State
- establishing a ban on asylum or refuge for the perpetrators

These and many other obligations will only become a reality with the entering into force of a Convention on Enforced Disappearance.

When our claim was again postponed before the UN Commission on Human Rights, we started working together with other international NGOs.

After years of disappointments and waiting, never losing hope, we reached a point where we could perceive a slow but positive development in the Sessions. In August 1998, the Sub-Commission on the Promotion and Protection of Human Rights adopted the Draft International Convention for the Protection of All Persons against Enforced Disappearance, after four years of work and several consultation meetings with UN experts such as Luis Joinet and non-governmental organizations.

In its 57th session, the Commission appointed an independent expert with a mandate to examine the existing criminal and human rights international framework on the issue of enforced disappearance, and to establish possible lacunae in order to ensure the full protection against enforced or involuntary disappearance, and established an Inter Session open-ended Working Group, mandated with the drafting of a normative legally binding instrument for the protection of all persons against enforced disappearance.

On January 6, 2003, the Inter Session Working Group initiated its work under the chairmanship of the French Ambassador, Bernard Kessedjian.

Representatives of States members of the Commission participated together with non-member States, as observers. Several NGOs with ECOSOC consultative status were also represented, among them FEDEFAM.

The Inter Session Working Group met over three years (twice a year) with Delegations from 60 countries and human rights organizations which, being this an open-ended group, had a voice but not a vote.

On Thursday September 22, 2005, after these three years of debate and valuable contributions, by the end of the afternoon session the Ambassador of France in Geneva, Bernard Kessedjian, solemnly

announced the tacit adoption of the draft International Convention for the Protection of All Persons from Enforced Disappearance.

The new international instrument recognizes the right not to be a victim of enforced disappearance, confirms that the generalized or systematic practice of enforced disappearance is a crime against humanity, reaffirms in all cases the right of victims to justice and reparations and establishes de the right to know the Truth in the event of this flagrant violation of human rights, by recourse to effective judicial remedies if necessary.

Likewise, the draft Convention stipulates the obligation to criminalize enforced disappearance as an autonomous crime, and the obligations of the State to adopt in all cases a series of steps for the prevention, investigation, prosecution and punishment of neither perpetrators of enforced disappearance, who cannot allege superior orders nor the existence of State of Emergency or exceptional circumstances as a defense.

This Convention will fill a void that still exists in the international protection of human rights. In June 2006, it was unanimously adopted by the new organ, the UN Human Rights Council. ON December 20th, 2006, it was adopted definitively by the General Assembly of the United Nations in New York.

On February 6, 2007, in Paris, at the Ministry of Foreign Affairs of France, it was recognized by 70 countries so that this Convention can begin to operate. Up to this day, only 4 countries have ratified it, among them Argentina.

Before concluding, I wish to touch upon the theft of children born during the captivity of their disappeared parents, one of the more sinister practices that run against every basic principle of humanity.

In Argentina, this practice was executed in a systematic manner; hundreds of children disappeared and were appropriated by civilians and military, altering their identity and history. They are now young men and women of 30 years of age or over, who we consider live disappeared and whom the Grandmothers of Plaza de Mayo have been searching for, day in and day out, for over three decades. We have located 89 of them, so far – hundreds are still missing.

This new international instrument convinced that its effectiveness will achieve the full protection against enforced disappearance, will be the first to establish obligations for all regions. There are 104 States as cosponsors, and we believe each of them will ratify the Convention as soon as possible. That will be an effective response for Peace and Never Again.

Thank you

\* Enriqueta Estela Barnes de Carlotto is the current President and the founder of "Abuelas de Plaza de Mayo" (Grandmothers of Plaza de Mayo). A teacher and school headmistress in the province of Buenos Aires, in 1977 she was one of the founders of the non-governmental organization called Abuelas (Grandmothers) de Plaza de Mayo, devoted specifically to fighting for the return of their grandchildren, babies kidnapped with their parents, some after their parents were killed, and others born in clandestine detention centers where their mothers were taken after having been kidnapped at different stages of pregnancy.

She has received many national and international Human Rights awards for her tireless struggle as a human rights defender. She is a "Doctor Honoris Causa" of the National University of Entre Ríos, Argentina; the National University of Salta; the National University of La Plata; National University of San Martín; the Universidad de Buenos Aires; the University of Massachusetts, USA; and the Universidad Autónoma de Barcelona, Spain. She is currently a candidate for the Peace Nobel Prize.

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Dr. Yasmin Louise Sooka\***

Let me say that it is a great honor to be here today, and allow me to thank the Argentinean government for inviting me to be part of this important discussion. This event continues to build bridges between the rest of the world and the region I come from.

In 2002, the report by the Independent Expert said that “the crime of enforced disappearances is not only directed against the disappeared person, but equally against their families, fiends, and the society they live in. Often the disappeared persons are killed immediately, but their children, parents, and spouses continue to live for many years in a situation of insecurity, anguish and stress - torn between hope and despair. They must therefore also be considered as victims of enforced disappearances.

In the years since 2002, while a number of steps were taken, I think the human rights community acknowledged that still many gaps existed in respect of concrete measures of prevention, such as the obligation to maintain centralized registers of all places of detention and all detainees. And Manfred Novak then clearly called for a legally binding normative instrument for the protection of all persons from enforced disappearances. This gap has now been addressed by the Convention, which represents a milestone in the struggle by activists and victims against impunity, and is a specific instrument to address enforced disappearances. The roles of governments like Argentina and my own, shaped by their history of struggle, together with civil society organizations, like the Grandmothers and Mothers in Argentina, who have inspired similar movements across the world, must be saluted.

The Convention is particularly significant for Africa, since there is no instrument under the African Human Rights system to deal with enforced disappearances. While certain provisions under the Charter could be used, they do not address disappearances directly. And the Convention, moreover, deals with five key areas which impose a positive obligation to States to protect persons from enforced disappearances. The Working Group on Disappearances has highlighted more than 440 cases of enforced disappearances in the African region. However, there is a great recognition that most of those disappearances go unrecorded and unreported. And this is, probably, due to the fact of poverty, illiteracy, fear of reprisal, the weakness of the administration of justice, ineffectual reporting channels

and mechanisms, and institutionalized systems of impunity, practices of silence and restrictions on the work of civil society. Victims and their families are often powerless to take action, given that they live in fear - that more often than not, it is the State that is responsible. So they suffer not only the loss of a loved one, but are also condemned to suffering in silence, without any recourse in their quest for their truth. In most instances, particularly in the African region, perpetrators continue to enjoy powerful positions in those societies, thus preventing the truth from being known. And in most transitions that have taken place in the past few years, perpetrators are accommodated in the Governments of 'national unity' and endeavor to ensure that they are not held responsible for their actions.

Of particular interest for the region is the establishment of the Committee on Enforced Disappearances, with the function that provides for monitoring of the Convention and periodic reports made by States. But one of the most important tools provided for in the Convention is the right that family members have to approach the Committee directly, requesting them to find or to investigate the fate of the disappeared persons. This tool will allow family members or interested parties to start the process by approaching the Committee, breaking the silence that is imposed, particularly in countries in which impunity is the order of the day. For victims, the Convention is a reinforcement of the right to the truth, the right to justice and the right to reparations. In my continent, more than 21 countries have signed on. My own country has indicated that by the end of June this year, they will sign on and ratify the Convention.

Nevertheless, civil society organizations are skeptical, because signing on and ratifying is one thing, but ensuring that we domesticate the Convention into legislation to ensure compliance and implementation, that is the challenge for countries in the region.

I'm pleased to say that in South Africa this year, in January, a number of human rights organizations came together, from the region, and have committed themselves to a campaign of solidarity to ensure that more governments in the region sign on. We intend to build a movement for solidarity in the region about ending disappearances, and encourage more civil society organizations to join the Coalition. We will popularize the Convention, particularly with victim groups in the region, and we encourage other governments to sign on. Already, in 2007 in the Republic of Congo, they called upon the African Human Rights Committee to adopt a resolution that eradicates enforced disappearances and urges Member States of the African Union to sign on and ratify. While this call is to be welcome, we have to make sure that we take extraordinary steps to counter this extraordinary crime.

Yasmin Sooka is the executive director of the Foundation for Human Rights, one of South Africa's premier indigenous grantmakers to the human rights sector. Prior to joining the Foundation, Ms Sooka served as commissioner on the South African Truth and Reconciliation Commission as the Deputy Chairperson to the Human Rights Violations Committee. In 2002 Ms Sooka was appointed by the United Nations High Commissioner for Human Rights to serve as international commissioner on the Sierra Leone Truth and Reconciliation Commission.

She is widely regarded as an expert on both transitional justice and the question of gender. She regularly consults internationally to governments, commissions and civil society organizations. Ms Sooka also serves as an executive member to the Niwano Peace Foundation and is a trustee member of the Centre for Conflict Resolution and the Black Sash Trust.

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Santiago Corcuera, Chairperson of the Working Group on enforced or involuntary disappearances of the Human Rights Council\***

I've been asked to use English, to facilitate comprehension by the majority of participants, but I'd like to start by thanking our hosts, the government of Argentina, Ambassador Ojea Quintana and Ambassador Argüello for his invitation in Spanish, the language we best can express ourselves in both Argentineans and Mexicans.

And then I can switch to English and share with you a few thoughts in connection with this new Convention and the position of the Working Group on Enforced Disappearances (WGEID) with regard to the Convention. There was a point in time when the position of the WG was considered somewhat confusing, it was not apparent whether the WG supported, in fact, the idea of a new Convention on Enforced Disappearance and, on top of that, whether the WG was in favor of the Convention contemplating the creation of a monitoring body for the supervision of compliance with the Convention. I think that position changed very clearly when Professor Toope took the Chair of the WG and began promoting the establishment of the Committee and the adoption of the Convention. And when I took over the Chair, that policy continued. It is our conviction, of the WG, that this Convention should come into force as soon as possible, and that the Committee contemplated in its text should be in place and its competence or jurisdiction should be recognized by as many countries as possible, as soon as possible.

One of the concerns that some people expressed about the creation of the new Convention and the Committee contemplated in that Convention is the potential overlap or duplication of functions between the WG and the monitoring body. The WG has made it very adamantly clear that we feel that is not a problem, and there are sufficient examples that show clearly that a Special Procedure under the system of special procedures of the –now- Human Rights Council and the creation of a monitoring body envisioned in a Treaty can live together happily without any problem. That is the case of Torture, for example, where there is a Special Rapporteur on Torture, doing a very active job around the world, while there is a Convention and a Committee, a monitoring body, supervising compliance with the Convention. The functions, at first sight could seem similar – for example, Ms. Estela was mentioning that this Committee will have an 'urgent action' type of procedure, which is similar to the humanitarian mandate of the WG. That does not mean that the new Committee can take over all the functions of the

WG, among other reasons, because unfortunately not all countries in the world ratify human rights treaties, and as in the case of the torture mandate, there are countries that are not subject to the Convention, that have not recognized the jurisdiction of the Committee on Torture, and therefore the only window of opportunity that some victims coming from some countries have is filing denunciations and letters of urgent appeal to the Rapporteur on Torture, who follows up on cases that otherwise could not be considered by the Committee because countries have not recognized the competence or jurisdiction of the Committee.

Our hope, of course, is that this Convention could be as universal as possible, and that every country in the world ratifies the Convention, and not only that, but recognizes the competence of the new Committee, to be supervised and monitored by it. Unfortunately, we know that will not happen immediately, if at all. And thus the WG needs to continue serving as a channel of communication between governments and the families of the disappeared in that humanitarian mandate, in addition to supervising or monitoring compliance by countries with the 1992 Declaration. So long as some countries do not ratify this binding instrument, the non-binding instrument of 1992 can be used to supervise actions by countries that are not abiding by principles of international law regarding disappearances.

Additionally, the WG on enforced disappearances, being a part of the special procedures system of the Council, is more flexible of course than the procedures that are taken before treaty bodies, where the exhaustion of internal remedies requirement has to be complied with, generally. In principle, a treaty body is only a subsidiary or complementary procedure, once the victim has exhausted all internal remedies. The WG, as one of the special procedures of the UN, does not have that requirement. We can receive letters of denunciation of enforced disappearances the moment that the person was last seen, without having to exhaust internal remedies. We only require that a family member denouncing the enforced disappearances tell us what steps have been taken internally, and if the person tells us that no steps have been taken because, for example, of fear of reprisals, we accept the case. We are very flexible because we are not a court of law, we are not there to establish international responsibility, we are not there to establish criminal liability, but to act as a channel for communication between the family member and the government.

So, I think that those fears of overlapping and duplication are really nonsense, and were some type of 'propaganda' to stop the creation of the new body, which of course is extremely important. Our hope is

that, not only the Convention is ratified by as many countries as possible, but also that the monitoring body can start its work as soon as possible.

Finally, we as members of the WG and myself as its Chairperson would like to also say that, unfortunately, the phenomenon of enforced disappearances is not just a Latin American problem. If you go around the world and talk about enforced disappearances, people say “of course, Argentina and Chile” and so on. And they don’t think even of Guatemala, when you see that thousands of persons disappeared in Guatemala. And if you tell them that disappearances are happening in Russia as we speak, or in Colombia, or in Sri Lanka, or in Africa, they scratch their heads and ask “How come?”

Unfortunately, it is a global phenomenon, and therefore this Convention, as a universal Convention, is extremely important. In Latin America, of course, we have our own Convention. And some people would say “Why would a Latin American country be interested in ratifying this Convention?” First of all, because we need as many ratifications as possible. Even those where the phenomenon does not happen and has never happened, need to ratify the Convention to show that there is a commitment that this practice will never take place in that country. In those countries where it has happened and it was stopped, we need them to ratify the Convention to establish the commitment that it will never happen again, and that the obligations regarding reparations and truth will be honored.

And, in those countries where it is still happening and is being promoted by countries that tacitly or actively perpetrate this horrendous crime, they should be encouraged to ratify the Convention and to stop the practice, to honor their obligations. Of course, we have seen countries that ratify Conventions just for cosmetic purposes, and they keep on violating the very treaty that they ratified. But there will be a moment in history when they will be held accountable for having done that. So I think it is really important that as many countries as possible ratify this very important Convention, so we can consider enforced disappearances ‘disappeared’ from the face of the earth.

Thank you very much.

\* Santiago Corcuera Cabezut is the Chairperson of the Working Group on enforced or involuntary disappearances of the Human Rights Council since August 2006. He graduated as a lawyer from Universidad Iberoamericana and obtained a Masters Degree (LL.M) from Cambridge, UK, and is a member of Queens’ College. He has had an extensive academic career at Universidad Iberoamericana, including as the Head of the Law Department from 1996-97, as a Research Fellow in Cambridge and an associate senior member of Queens’ College. He has published numerous articles and Constitutional law and International Human Rights Law, published by Oxford University Press (Mexico).

In 2001 he was appointed by the Legislative Assembly of Mexico City as member of the Commission of Human Rights of the City. He was also one of the 4 experts recruited by UNHCR on the 20<sup>th</sup> anniversary of the Cartagena Declaration on Refugees.

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Carol Bogert, Associate Executive Director of Human Rights Watch\***

It is a pleasure to be here today, and I would like to also thank the Government of Argentina for organizing this event and to congratulate them on their election to the UN Human Rights Council, where we look forward to working in partnership.

I'd like to say that we feel this meeting today is really important. As Mr. Corcuera just mentioned, this is not a matter of historical interest, something that happened 30 years ago in Argentina or Chile. This is a matter of the utmost urgency today. Disappearances are occurring today, all around the world, and urgent action is needed to step up the pace of ratification for this Treaty, and to ensure that it is implemented to the fullest.

Now, as Juan Mendez mentioned, HRW has documented enforced disappearances since our early days – we were founded 30 years ago- in Argentina and Peru, but on every continent: Nepal, Sri Lanka, Thailand, Philippines, Syria, Lebanon, Algeria, Russia and Turkey, and also, I want to mention, in the United States. In all these countries we have published extensive documentation of the phenomenon of enforced disappearances. And we did so, as many NGOs, in the absence of a specific treaty. Because it was and always has been clear that enforced disappearance is a heinous crime and violates many inalienable human rights: liberty and security, the protection of the individual and its recognition before the law, due process, the prohibition against torture and all forms of cruel, inhuman or degrading treatment and, of course, the protection of the right to life.

This Convention of course draws on what was already established under customary law: that enforced disappearances are prohibited under international law and those who commit them must be held to account. But this Convention really details what it means to respect and fulfill that international prohibition, and it offers a tool for enforcement and a way for victims –both the disappeared and their loved ones- to prevent this crime from occurring.

There are really three elements in the Treaty that we, at HRW, feel are important. First, the avenues for redress for victims. A very appropriate focus of victims is present in this body of law, because the Convention, of course, guarantees anyone with legitimate interest, information about where the person

deprived of liberty is being held and, in the event of death, the circumstances of death and where the body is buried. States must ensure that victims of enforced disappearances or those directly affected by it; have a right to obtain reparation or compensation. The former legal and policy director of HRW, W. Taylor, spent many weeks and months in Geneva working in this Treaty and I asked him once why he was so committed to this particular body of international law. He described it by saying “Because this is the most basic insult to the dignity of the individual, because it says to the individual: you don’t exist. And there is no more fundamental attack on a human than that, the act of disappearance. And the focus and the avenues for redress than this Convention gives are very, very important.”

The second is impunity. Because States must bring the offenders, who committed enforced disappearances to justice. Not only with regard to people who committed enforced disappearances in the territory of the State but also in the case of alleged defenses in other jurisdictions. And the Convention is like the Convention against Torture in criminalizing enforced disappearances and obligating States to prosecute or extradite defendants. We hope, therefore, for States that have undertaken obligations –like those in the Convention against Torture- this should provide no significant further challenges to their legal systems. What are the obligations that a State undertakes? To ensure that enforced disappearances constitute an offense under its criminal law. To ensure that all those involved in a disappearance are held to account, and that there are appropriate penalties, and that there are no unreasonable statute of limitations. The obligation to investigate acts of enforced disappearance, and to act against the offender even if he or she is not a citizen or a resident. To cooperate with other States to ensure that offenders are prosecuted or extradited and to assist the victims of enforced disappearances to locate and return the remains.

Now, thirdly, we are heartened by the possibilities for prevention that this Convention offers. How would it help with prevention? Because, of course, the obligations that States assume under this Convention are not new. They are spelled out in the underlying document for the mandate of the Working Group, the Declaration for the protection of all persons from enforced disappearances since 1992. But this Convention does elevate the status of the issue to that of an international convention; it provides clarity, detail, and most importantly stigmatization of the crime of enforced disappearance. It closes the loopholes. A defense of superior orders is not allowed. The fact that it did not happen in your territory is no reason not to act. The fact that war, or the threat of war, or instability, or some form of public emergency may be in the air is no excuse not to act, and no excuse for enforced disappearance.

And in that regard, I want to close by saying that enforced disappearances is not an issue only of dictatorship. It does not occur only in governments that take the form of dictatorships: it occurs also in democracy. And here again, I have to reference the United States, where HRW has documented the disappearance of dozens of people in the so-called 'War against Terror'. People whose whereabouts are not known, whose names are not known, whose families don't know how to reach them, who –it goes without saying- have no access to counsel. This is a problem of today; this is a problem of right here. And this is a problem that HRW is ready to work with everyone in this room, to make progress and ensure that this Convention is made real, that victims are protected and, most important, victims are prevented.

Thank you very much.

\* Carroll Bogert has been the Associate Director of Human Rights Watch since June 2003, overseeing the organization's external relations and working alongside the Executive Director in managing a rapidly growing international non-profit institution. Before joining Human Rights Watch, she spent more than a decade in international news reporting. Beginning as a stringer for the Washington Post in Beijing, Carroll then moved to Newsweek covering the fall of Ferdinand Marcos in the Philippines, and worked in Beijing and Hong Kong covering Malaysia, Indonesia, Singapore, Taiwan, and Tibet, as well as the collapse of the Soviet Union, the fall of Gorbachev and the rise of Yeltsin.

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Gustavo Santaolalla\***

I feel deeply honored and privileged to be here at the UN, sharing this panel with this distinguished speakers. My background is perhaps different, I come from the arts and music. I'm very thankful to the Government of Argentina who thinks that I might be of some use to promote this Convention on enforced disappearances.

I'm going to speak, basically, from a very personal point of view. I come from the Arts, I started making music when I was very young, and as a teenager I dreamt of a better world, just like thousands of other people from my generation. Unfortunately, approximately 30,000 of persons from my generation "disappeared", were victims of State terrorism and they were not only tortured and killed but they became "desaparecidos", disappeared, they were stripped of their identities. And this is something that made victims not only of them but also of their families and, also, of our society – therefore, I think, the world too.

I had a chance, through my career, to meet some great people, like today. I had the chance to meet Adolfo Perez Esquivel, who wrote the intro for one of the books that we published, and Estela de Carlotto, Hebe de Bonafini, Nora Cortiñas. A couple of weeks ago, the Dalai Lama, people who have devoted their life to make people more aware about the issues of human rights. In those days, when I dreamt about a better world, those other companions not only dreamt of a better world but were determined to make it a better world.

I think, today, the ratification of the Convention on enforced disappearances, this is a call for a better world. I urge everybody in this room, for I think human rights is something that pertains not only to a panel or a group but to all of us, to each one of us – so I urge everyone in this room to please help us and ratify the Convention for human kind and for making this a better world.

Thank you.

\*The last two years have brought a windfall of acclaim for Gustavo Santaolalla, who has been honored with back to back Academy Awards for "Babel" (2007) and "Brokeback Mountain" (2006), Golden Globe for Best Original Song (2006), a Latin Grammy as Producer of the year, a BAFTA for "The Motorcycle Diaries" and a World Soundtrack Award for "21 Grams". He

was nominated for an additional Golden Globe, 2 Critics' Choice Awards and won Best Score from the Chicago Film Critics, Las Vegas Film Critics' and Online Film Critics' Associations for "Brokeback Mountain".

Santaolalla solidified his reputation as one of America's premiere record producers in 2003 by virtue of three Grammy nominations. Between himself and his label, Surco (a joint venture with Universal), his nominations included albums by Juanes and Orishas in the Latin Rock / Alternative Album category and as producer of the Kronos Quartet album "Nuevo" as best Classical Crossover Album.

Santaolalla recently performed the concert piece "Ayre" with Osvaldo Golijov and Dawn Upshaw at Lincoln Center in New York and Disney Hall in Los Angeles and toured Europe with his band Bajofondo Tango Club. In August 2005 a Time Magazine cover story named Santaolalla "One of the 25 most influential Hispanics in America."

His commitments with the defense of human rights has included appearances in benefits and collaboration in documentaries, including the film produced by Madonna, "I Am Because We Are" on the situation of orphans in Malawi. He has also collaborated with Madres de Plaza de Mayo in Argentina, publishing the book "Everyday Poetry: Because Silence is Deadly". His editorial venture, RETINA, has concentrated in the art, music and culture of Latin American, including human rights issues such as violence and injustice as a part of its history, including "Everyday Poetry" on the disappeared in Argentina, and "Blood" on violence in Latin American cities.

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Message from Louise Arbour, UN High Commissioner for Human Rights.  
Read by Mr. Ngonlardje Mbaidjol, Director of the New York Office of the UNHCHR.**

Ms. Arbour was not able to come, she is attending important meetings in Geneva, as you know, the Special Session on the Right to Food, so she has asked me to read this message to you:

“On 6 February 2007, the landmark International Convention for the Protection of All Persons from Enforced Disappearance was opened for signature in Paris reaching 57 signatures the very same day.

Negotiated in record time under the stewardship of the late and much respected Ambassador Bernard Kessedjian of France, this treaty closed a gap in international human rights law by making explicit the prohibition on enforced disappearances. It called on States to define enforced disappearances as offences in their own laws and stipulated that such disappearances are crimes against humanity when their practice is widespread or systematic.

Regrettably, 15 months later only four countries - Albania, Argentina, Mexico and Honduras - have ratified the Convention. Of those, only one -Albania- has recognized the competence of the Committee-to-be to receive individual communications as well as inter-States communication.

Yet, far from being a practice of the past, enforced disappearances are still perpetrated, most often in total impunity, whether by state authorities, parties in conflict or in the name of the global fight against terrorism. In 2007 alone, the UN's long standing mechanism set up to address this issue – the Human Rights Council's Working Group on Enforced or Involuntary Disappearances - received many hundreds of new cases from dozens of countries around the world. As we know, these are largely underestimated figures which do not portray the tragic reality of the phenomenon as a vast majority of cases do not come before the Working Group.

Behind each case of an enforced disappearance, there is a family and community suffering profound and sustained pain. Everywhere in the world, families of the disappeared go through continuous emotional

and material hardship and years of uncertainty as to the fate and whereabouts of their loved ones. These families have been prevented from moving ahead with their lives.

To solve a problem as enduring, entrenched and heinous as an enforced disappearance the existence of a Convention in itself is not enough if there is no strong political will and commitment to sign and ratify the treaty, and, most crucially, to enforce its legal provisions. I call on Member States to ratify the new Convention and ensure that it is promptly applied in order to clarify the case of abductees, to bring perpetrators to justice, to provide reparations to victims and ultimately to set the historical records straight by avoiding using amnesties for perpetrators of crimes of disappearance in exchange for guarantees of peace.

The Convention is the first universal human rights instrument that, in a language echoing the absolute prohibition against torture, stipulates that "No one shall be subjected to enforced disappearance". This new provision represents an historical achievement in international human rights law, as it establishes an autonomous, non-derogable human right. In this regard, my Office, which is already engaged in combating the issue of enforced disappearances, will spare no effort to support the respect for and the implementation of this core human right.

Thank you.”

**New York, 22nd May 2008**

**Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. It's important. It's urgent.**

**Remarks by Yvonne Terlingen, Head of New York Office of Amnesty International, on behalf of the International Coalition against Enforced Disappearances.**

I am speaking today on behalf of the International Coalition against Enforced Disappearances (ICAED), of which Amnesty International is a member. ICAED brings together families of the disappeared and NGOs who have worked for decades against enforced disappearances and to make the rights of victims a reality. We are very encouraged by the efforts of the Group of Friends of the Coalition, and very much would like to thank the Argentinean Mission for organizing this very important event, which we hope will really be a milestone in helping the Convention soon entering into force.

The practice of enforced disappearances is far from eradicated. In 2007 alone, the Human Rights Council Working Group on enforced and involuntary disappearances transmitted 629 new cases of reported enforced disappearances to Governments for response. This is in addition to more than 40,000 cases of enforced disappearances. As Yasmin Sooka has said, only a fraction of the total, which has not been clarified. Disappearance, as many of my predecessors have emphasized, occur in every region of the world including, indeed, in this country.

The Convention for the Protection of all Persons from enforced disappearances is an essential tool in ending this abhorrent practice and ending impunity for one of the worst human rights violations. We believe it is also one of the most forceful Conventions that the UN has ever adopted. Prompt ratification is, therefore, essential. Signature by 73 and ratification by 4 States of the Convention are important steps forward. Only 16 more ratifications are needed to bring the Convention into force.

However, the Convention will only be effective if States take all necessary steps to implement it at national level, in particular, by adopting effective legislation. States should already now begin to review their laws so that they can be ready to implement the Convention effectively, immediately on ratification. The Convention provides clear and practical guidelines on implementation. It requires that States review their laws to criminalize enforced disappearance, as the High Commissioner has emphasized. It requires that they ban secret detention; that they carry out independent investigations; that they search for the disappeared and that they hold those responsible fully accountable. It requires

them to establish the truth about enforced disappearance, and ensure that the victims and families have the right to obtain reparations. These fundamental elements define the obligations of State Parties.

The Committee on enforced disappearances to be created under the Convention to monitor its implementation also plays a complementary role to State efforts to combat disappearances. As you've heard, the Committee will be authorized to receive and to act upon individual and inter-States communications, provided of course that States acknowledge arts. 31 and 32 of the Convention.

The Committee, we believe, will be able to play an important role to protect victims and their families from disappearances, by receiving indeed requests from relatives direct or anyone else who has a legitimate interest, that the disappeared person be found and by taking urgent action. So it is only the families –and that is a very important qualification for us- but it can be anyone with a legitimate interest if the family doesn't dare. If serious violations of the Convention are suspected, the Committee can conduct fact-finding visits after consultation with the State party concerned. With those powers, the Committee can save lives.

We therefore urge all States to recognize the competence of the Committee, under articles 31 and 32 of the Convention, to receive individual and inter-state communications when they ratify the Convention. In doing so, State parties will uphold the prospect of justice for victims of enforced disappearances when all national responses have failed them and impunity persists. When the Convention enters into force, the hope for justice for the many thousands who remain disappeared will come a step closer. Their fate, and the ongoing pain of their relatives, should instill us with even more determination to continue fighting to prevent this appalling human rights violation in all parts of the world. To help them, and also to end impunity.

The Coalition urges the Group of Friends of the Convention to lead by example and ratify the Convention without delay. Let us all, in this year of the 60<sup>th</sup> Anniversary of the Universal Declaration on Human Rights, work hard to speed up the ratification process for this Convention so that it will enter into force not later than December this year.

Thank you.

