

Why Enforced Disappearances are Perpetrated against Groups as State Policy: Overlaps and Interconnections between Disappearances and Genocide

Jeremy Sarkin^{*}

Distinguished Visiting Professor of Law, and member of CEDIS,
at NOVA University, Lisbon Law School

Grażyna Baranowska^{**}

Polish Academy of Sciences (Poland)

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* Distinguished Visiting Professor of Law, and member of CEDIS, at NOVA University, Lisbon Law School, Lisbon, Portugal. The authors wish to thank Robert Grant and Tessa Assies for their assistance on this article and to Ariel Dulitzsky for commenting on a draft.

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Introduction

An enforced disappearance is the act of detaining or abducting a person and then either killing or keeping that person in detention without admitting responsibility, or without there being any evidence that a crime has been committed.¹ It is a tool used by government and rebel groups alike (but to be legally classified as such a crime it has to usually have some state association), to sow fear among their enemies and to gain control over other groups in the population that may oppose them.² Disappearances allow a government to use human rights abuse to enforce their regime's power over the population, whilst maintaining their image as a democratic country that respects and upholds the rule of law.³

While disappearances, legally speaking, are aimed at individuals (unlike genocide which legally has to target specific groups), in fact they are often a strategy employed by a state to control a group. Unlike genocide, which attempts to wipe out a group in whole or part, disappearances intend to spread fear in order to repress a population. While genocide aims to destroy a group in some way, disappearances are usually used as a method of control. Nonetheless, both genocide and enforced disappearances are often meant to have group effects. The state adopts the practice of disappearance as a way to target a specific person or a person who is a member of a group to have an effect on that group. There are many benefits to the state of such a practice, which is less conspicuous than genocide. The state can cause havoc within a group, but since the person's body or person is not found because it is hidden or destroyed, it is a way that the state is able to make plausible its denial of animosity towards specific groups. The state simply denies knowledge of the disappeared person's whereabouts, or blames other groups for what has occurred.⁴ Perpetrators can achieve at least two purposes, 1) removing specific persons (often leaders, lawyers or others working in a specific group or on a specific issue) from that society and either killing them or hiding them in detention and 2) causing fear in other persons of that group which then dissuades them from continuing with their "anti-state" role. By using disappearances as a tool, the state achieves both objectives without acknowledging its role (or even being linked specifically to the crimes that occur).⁵ While there may be suspicions about the role of the state in the abduction,

1 SARKIN (2012), pp. 537-83.

2 SARKIN (2013), pp. 3, 5.

3 DIETERICH (1986), p. 46.

4 BRODY/GONZALEZ (1997), p. 336.

5 SARKIN (2011), pp. 57-67.

or there may be a belief that the person has been killed or detained, there is no evidence thereof. The state can therefore claim that nothing has happened to the person, but also deny its involvement if anything has happened to them. In this way, the state can also deny that it is doing anything against the group. One of the rare examples when the state acknowledges having the person but refuses to reveal where he or she is being held is the case of the Panchen Lama. He was abducted by China when he was 6 years old. The Chinese state has refused to reveal for the last 28 years where he or his family is being held. While this is a disappearance of an individual, it is in reality a crime aimed against a group: he disappeared because of his status within the Tibetan Buddhist community. His disappearance is connected to his religious and political role within that community and their demand for Tibetan independence from China.⁶

This article examines the connection between groups and disappearances. It argues that often those targeted for disappearance are from a group, particularly minority or indigenous groups of some description. However, the person's group identity is not always clear, because while it might be obvious to the families and the group being targeted, it is very difficult to undoubtedly assess this. This is the case, since the total number and overall group identities of those who are disappeared are often hard to compile. States complicate this by not releasing records.⁷

The article argues that enforced disappearances are used as a systematic method of oppression in many countries, and particularly affected by this practice are minority, indigenous, ethnic or other groups of people. Their different ethnic, cultural and/or linguistic identity and political aspirations are reasons why these groups are viewed as 'sources of contestation', which is why they become prime targets for governments. The goals that such groups are often trying to ensure include: greater democratization, ending discrimination against the group, trying to ensure that a specific resource is not taken from the group, or another similar objective.

The article further argues that understanding the "group dimension" of enforced disappearances should ensure that more could be done to both prevent and react to disappearances. This is important, since if there is a better understanding that members of a certain minority are at risk of disappearing, they can be better protected.⁸ For example, family members of persons that have 'been

6 REUTERS (2015).

7 CRENZEL (2011), p. 1064.

8 «In the course of its activities to protect civilians affected by conflict, the ICRC sometimes concludes that a particular group of people, e.g. dispersed members of ethnic minorities, may be at risk of disappearing. Their systematic registration might, if made known, increase their chance of being respected by belligerents. On the other hand such singling out might place them in even greater jeopardy.» See SASSOLI/TOUGAS (2002), p. 738.

disappeared’ can rely on the fact that their group was at risk to prove that their loved one was indeed ‘disappeared’. Furthermore, members of the group can be included in subsequent reparations programmes. Interestingly, the families of the disappeared see and understand the “group dimension” of disappearances. As a result, they often create victim associations that assemble persons from that group. In some situations, two or more victim associations relate to disappearances – gathering people from different ethnic or national groups, as for example those which have occurred in Cyprus.⁹ This is especially important as families of disappeared persons play crucial roles with regard to establishing the circumstances of enforced disappearances and assisting victims.¹⁰ For that reason, their mobilization has shaped transitional justice norms and institutions.¹¹ The particular importance of associations of disappeared persons families has also been recognized by including a provision for guaranteeing the right to form and participate in such organizations in the International Convention for the Protection of All Persons from Enforced Disappearance (art. 24.7).

The article also examines the interconnection between enforced disappearances and genocide. It does this partly because in practice these acts target similar persons. While genocide is defined as being perpetrated against specific groups, enforced disappearances are not defined as targeting groups as a necessary aspect of the crime. However, as the article argues, enforced disappearances are often perpetrated against members of specific groups, particularly minorities or indigenous groups. Genocide is a crime that inherently targets groups even though – as long as there is intent to destroy a group of people in whole or in part – it could consist of killing a single person. While disappearances can and often are committed on a large scale (and may then be classified as crimes against humanity), they are usually considered individually on a case-by-case basis. This research seeks to understand how disappearances are a popular tool for the control and disruption of a subjugated population, and may be the strategy of choice for a government that is unwilling or unable to commit genocide (or crimes against humanity) against such groups. Whilst not every case of mass enforced disappearance applies specifically to minorities or other groups, or presupposes a targeting of any one particular group, a variety of groups have undoubtedly suffered around the world. As previously mentioned, minorities or other groups are often targeted as the victims of ethnic cleansing, as they are scapegoated as the “problem group” in a society in conflict. The article argues that state authorities that aim at dissuading specific groups from their goals, or target them for whatever other reason, but do not want to conduct

9 See CASSIA (2006); See also CHAPMAN, PERIKLEOUS, Ch. YAKINTHOU and ZINCIK CELAL (2011), p. 9.

10 SARKIN (2015b), pp. 21-48.

11 See KOVRAS (2017).

genocide against them, often wage a campaign of disappearances. Thus, rather than wiping out the group, the state uses disappearances as a means to intimidate and harass a group, to achieve some specific outcome. An example of the overlap of genocide and enforced disappearance are the crimes in Srebrenica, which have been classified as both.

In its final section, the article examines what can be done to deal with and try and prevent disappearances aimed specifically at groups. A variety of suggestions are made as to what can be done to prevent such disappearances as well as to deal with them when they do occur.

Definitional aspects

Enforced disappearances were initially understood to be a crime violating only the rights of the disappeared persons themselves. However, with the development of international law, the next-of-kin of the disappeared person are also considered victims of enforced disappearances. This change, while initially emerging in international jurisprudence,¹² in 2006 was also included in the International Convention for the Protection of All Persons from Enforced Disappearance.¹³ Not only do enforced disappearances have a huge impact on the next-of-kin, but also on the wider group that the disappeared person belongs to. Individuals who are in a similar situation to the disappeared and their families are intimidated and subjected to a life of fear. Consequentially, the crime can be – and has been – used by state authorities to target groups.

International law on enforced disappearances, however, is centred on the individual. Disappearance is seen, from a criminal point of view, as an attack against an individual. It is not seen as a crime that targets groups, or a number of people, as a necessary element of the act. An exception to this is contained in the Rome Statute, which stipulates that a systematic or widespread campaign makes the crime of disappearances a crime against humanity.¹⁴ However, it should be noted that the systematic or widespread campaign does not have to target a specific group of people: it can also be a campaign by a state against a number of people who are not linked by their membership of a religious, ethnic, racial or other similar group. People can be targeted because they act alone (which is rare) or because they belong to an oppositional organization of some description, which has a specific political, or other goal. Often, those individuals are members of one group but their membership is immaterial from a legal

12 See VERMEULEN (2012).

13 CITRONI/SCOVAZZI (2007).

14 Ch. HALL (1999), pp. 117-72.

point of view. Another change introduced by the Rome Statute is broadening the potential groups of perpetrators. While a necessary component to the crime generally is the connection of the perpetrator to the state, today this has been expanded by the Rome Statute to also include non-state actors where the disappearances are conducted in a systematic or widespread manner, which is then categorized as a crime against humanity. Thus, within the Rome Statute, non-state actors can also be held liable for disappearances but only when those have been conducted as part of a campaign.¹⁵ This is a useful advance in international law but still means that, generally speaking, non-state actors cannot carry out disappearances, and their actions which amount to an enforced disappearance have to be charged as other crimes.

1. Linking Different Categories of Disappearances to Groups

Enforced disappearances are performed in different contexts and settings. However, they can be broadly divided into three categories: (a) disappearances of political opponents, (b) disappearances within the context of an internal conflict of an ethnic character, (c) disappearances during inter-ethnic conflicts. While the three categories are interrelated and some disappearances might fit into more than one of them, they are useful to show how and where enforced disappearances are perpetrated on a variety of groups.

a) Disappearances of political opponents

Historically, enforced disappearances have been directed at political opponents. The term itself is a translation of the Spanish term “*desapariciones forzadas*” which was adopted to describe serious violations of human rights that took place in the 1960s and 1970s in various South American countries.¹⁶ The United Nations used the term “disappeared person” for the first time with regard to the situation in Chile,¹⁷ where the military junta that took power in 1973 “disappeared” dissidents and their families.¹⁸ Another South American country, Argentina, became a symbol of the practice. Human rights organizations estimate the number of disappearances to be 30,000.¹⁹ These occurred to paralyze

15 For more on this see GIORGOU (2013).

16 NOWAK (2002).

17 UNGA (1977), Res. 32/118.

18 STERN (2004).

19 United Nations Office of the High Commissioner of Human Rights (2012).

public protest, ensure the silence of the relatives, and create a ‘bottomless pit of horror’²⁰ but also to instil fear and passiveness, spread confusion among surviving combatants.²¹ However, disappearances were also committed in many other counties in the region, such as Chile, Guatemala and Brazil. For example, in Chile, the practice was mainly aimed at outstanding officials of the overthrown government, leaders in political parties, labour unions, neighbourhood organizations, indigenous people and high school students.²² It was done in order to exterminate opponents considered dangerous and to avoid accountability for such crimes.²³ While the first wave (1973-1974) of disappearances targeted militants, during the second wave (1975-1978) the repression was directed at sympathizers with socialist and communist ideas.²⁴ It could be argued that during the first wave people were targeted because of their individual involvement in the resistance, so those acts were not inherently group-connected. Nevertheless, during the second wave of disappearances people ‘were disappeared’ because of their (assumed) membership or support of a group.

In Argentina, enforced disappearances were deployed as the main tool of repression by the military between 1976 and 1983, when between 10.000 and 30.000 persons ‘were disappeared’. The technique was intentionally chosen as it enabled the perpetrators to distance themselves from the crime – since there was no official registration or dead bodies the military could deny the existence of the crime.²⁵ The disappearances received a lot of international attention due to their widespread manner, but also because of cruel methods used, such as throwing persons from airplanes into the ocean.²⁶ While the wide-ranging series of targeted groups consisted essentially of persons who opposed the government, Jewish people in particular suffered extremely brutal treatment. High levels of anti-Semitism in Argentina made the Jewish population a convenient scapegoat in this Christian-majority country.²⁷ Jews represented more than 12 per cent of the victims of the military regime while constituting less than 1 per cent of Argentina’s population.²⁸ Since ethnic and national minorities are often perceived as a threat to the state, during periods of political oppression they are particularly vulnerable to enforced disappearances, even if the conflict itself

20 National Commission on the Disappearance of Persons (1984).

21 ROBBERN (2005), p. 5.

22 Chilean National Commission on Truth and Reconciliation (1993), pp. 161-162.

23 *Ibid.*, p. 8.

24 KOVRAS (2017), p. 212.

25 *Ibid.*, p. 61.

26 ROBBERN (2005), p. 267.

27 FALBEL and KLEPFISCH (1990), p. 86.

28 GO-I (1999).

is not directly connected to the ethnic or national minority groups. This was the case in Argentina, where the Jewish population was disproportionately affected by enforced disappearance. Another example is the enforced disappearances in Guatemala, where the Mayan indigenous minority was suspected of helping rebel groups and targeted for that reason – ultimately about 83 per cent of the disappeared persons were Mayan.²⁹

The Argentina military also employed a practice of abducting babies born to mothers during captivity and giving them to families, in order for them to grow up under “Christian” values. In this way approximately 500 babies were given to foster parents, who often were members of the security services.³⁰ This practice is an illustration of the fact that, by deploying enforced disappearances, the military were trying to achieve more goals than just to ‘disappear’ and torture an individual person. Clearly, the perpetrators were also aiming at intimidating their families as well as other people who had similar political views. Kidnapping babies and giving them to families who have different opinions, beliefs or worldviews, shows that the military were aiming to weaken (or even dispose of) one group and strengthen another. What the perpetrators ultimately wanted to achieve is having fewer persons belonging to a dissident group, and more persons belonging to the majority group. The practice of “disappearing” children and giving them to parents with other views is inherently connected to groups. This strategy has been employed not only by the Argentina military, but also by other regimes, such as in Franco’s Spain, where approximately 30.000 children were forcibly taken from Republican families.³¹ Another such example is El Salvador, where the practice was part of a deliberate strategy within the violence institutionalized by the state during the civil war between 1979-1992. Children were often abducted by military personnel who brought them up as their own.³² The exact number of disappeared children is unknown, but the non-governmental organization *Pro-Búsqueda*, dedicated to the search for those children, has documented almost 900 cases.³³

Political opponents ‘are disappeared’ for many different reasons. A variety of motives can be observed in the practice of the regime of Bashir al-Assad in Syria. Since the beginning of the crisis in March 2011, the government has targeted different groups of people – monitors of the government, such as human rights defenders, journalists and other media workers, but also doctors and

29 GULDEN (2002), p. 26.

30 See ARDITTI (1999).

31 As cited by the Spanish National Court, No. 5, 18 Nov. 2008 (Procedimiento Ordinario [Ordinary Proceedings] 53/2008 E) at 61.

32 UN Human Rights Council (2007), §23.

33 See the webpage of Pro-Búsqueda at <http://www.probusqueda.org.sv/>.

humanitarian aid workers,³⁴ demonstrators, activists and bloggers.³⁵ As in Argentina, the authorities mainly targeted persons who opposed the government. According to a report by the Office of the High Commissioner of Human Rights, disappearance in the conflict in Syria is committed for many reasons: to punish³⁶ or silence the opposition,³⁷ or to instil fear, oppress, and assert control over persons taking part in demonstrations against the Government.³⁸ In different stages of the conflict there have been many different reasons for committing enforced disappearances. However, adherence to a group that was targeted by the governmental forces at this stage, for example journalists or activists, increased the risk of 'being forcibly disappeared'. A specific example of a type of political disappearance that occurs quite regularly, is the one committed against lawyers. They are targeted because they represent a specific group that is opposing the government. An example is the case of the Thai lawyer, Mr Somchai Neelapaijit, who was last seen in 2004, and whose disappearance has been connected to the fact that he represented Muslim defendants in terrorism cases and was the Chairperson of the Muslim Lawyers Association of Thailand.³⁹

Enforced disappearances are thus commonly used as a phenomenon by state authorities to target individual political opponents. As this section has argued, even in cases of political disappearances there are aspects connected to groups. A clear example is the aforementioned kidnapping of babies born into families from one political group and giving them to members of another political group. Authorities commit disappearances with the aim of intimidating specific groups of persons, who are attached to a political ideology (or a perceived to be attached to it). In that sense, the authorities target both the individual activists and the political group they belong to. While out of the three analysed categories, disappearances of political opponents seem to mostly targets individuals, there is a link to minority, indigenous or other types of groups as well.

b) Disappearances during an internal conflict of an ethnic character

An internal armed conflict between a minority group and a state, often rooted in a separation movement, commonly leads to serious human right violations. In such a situation enforced disappearances are one of the means used. Without

34 Office of the High Commissioner of Human Rights (2013), p. 27.

35 *Ibid.*, §12.

36 *Ibid.*, §2, §18-21.

37 *Ibid.*, §12.

38 *Ibid.*, §17.

39 HABERKORN (2018). p. 175.

much effort, the state is able to sow fear among the group members. The state usually targets persons directly involved in the conflict, such as political leaders, and in that way weakens the movement. At the same time, state authorities ‘disappear’ group members who may not be politically involved. This intimidates the whole minority population. The disappearance of politically active group members is therefore at times accompanied by targeting large numbers of civilians at random, to spread fear and discourage members of the minority population from joining independence movements.⁴⁰ This is a clear difference from the category analysed above: the state targets not only political opponents, but also persons belonging to minorities, to indigenous or other groups who are not involved in political activities.

An example of such a situation is Turkey. During the conflict between the state and the Kurdistan Workers’ Party (PKK) both sides used violence against the civilian population. Hundreds of Kurds in South Eastern Turkey were killed, tortured and ‘disappeared’ throughout the 1980s and 1990s.⁴¹ The PKK has evolved its demands over time, from initially demanding an independent state to later seeking an autonomous region in Turkey, and today it demands social, political and religious recognition of the Kurdish ethnicity.⁴² One of the means employed by the state were enforced disappearances.⁴³ While there is no official list of disappeared persons, and it is still extremely difficult to assess the real dimension of the problem,⁴⁴ it was almost exclusively members of the Kurdish population that “were disappeared”. Some of the disappeared supported the PKK, but not all. Some people disappeared after being stopped at a check-point or during a police raid on a village. Due to lack of reliable governmental sources and proceedings,⁴⁵ the stories of the disappeared can only be retrieved through other sources. One of these sources are NGOs records. One example of these databases is that of the organisation Hakikat Adalet Hafıza Çalışmaları Merkezi, which contains the disappearances of 500 persons. The database was created through interviews and contains details including the place, date, and circumstances of the disappearance.⁴⁶ Another source of information are the judgments of the European Court of Human Rights (ECtHR), as families of many disappeared persons have filed complaints with the ECtHR.⁴⁷ The judgments

40 NAVLAKHA (1999), p. 1491.

41 BAYDAR/VEGEN (2006), p. 691.

42 GUNTER (2013), p. 102.

43 Amnesty International (1995), pp. 8-9.

44 UN Human Rights Council (2016) §7.

45 See Human Rights Watch (2012).

46 See the webpage of Hafıza Merkezi at <http://www.zorlakaybetmeler.org>.

47 On the role the ECtHR can have in truth revelation see CALI (2010); and KELLER/HERI (2014).

contain a section briefly setting out the circumstances of the disappearance. An analysis of both NGO sources and ECtHR judgments leads to the conclusion that almost exclusively members of the Kurdish population have ‘been disappeared’, and in many cases the disappeared persons were not involved in any political activity. Therefore, while fighting the PKK the Turkish state ‘disappeared’ not only political opponents (that is to say, persons involved in the activities of the PKK), but also targeted other Kurdish people, just because of their adherence to a minority group that was perceived as a threat to the state.

Kurds represent an intersection in theory as to why minorities are targeted for disappearance by states. Whilst Kurds have been significantly targeted on an ethnic basis in Turkey,⁴⁸ Iraqi Kurdistan is an oil and water rich region, which could be a contributing factor to the oppression of the political and economic status of the group.⁴⁹ Economic empowerment of an ethnic minority may embolden the group and give them the capability to push more strongly for independence. The Kurdish drive for independence was brutally oppressed by Saddam Hussein’s Baathist regime throughout the 1980s, which crushed any hint of separatism. 1988 saw the execution of “Operation Anfal”, during which 100,000 Iraqi Kurds ‘were disappeared’ in just four months.⁵⁰ Therefore, during a similar period persons belonging to the Kurdish minority have been targeted for enforced disappearance in two neighbouring countries.

Another example of disappearances committed during an internal struggle in which a minority was trying to achieve independence are the enforced disappearances by the Russian military and security forces in the Northern Caucasus since the late 1990s. The majority occurred in Chechnya, during and after the two Chechen wars. After formally declaring the end of the Russian operation in 2009 and withdrawing some of the military, violence and serious violation of human rights still take place.⁵¹ In the years after 2009 the number of enforced disappearances increased.⁵² While there is no official list of disappeared persons, the Ombudsman of Chechnya stated in 2011 that about 5.000 persons have ‘been disappeared’ in Chechnya during the counter-terrorist operations.⁵³ Enforced disappearances have also been recorded in other parts of the Northern Caucasus, such as Ingushetia and Dagestan. Disappearances in the region have not been properly investigated and therefore there are no reliable government

48 FULLER (1993), p. 111.

49 GUNTER (2004), p. 197.

50 AMNESTY INTERNATIONAL (1994), p. 7.

51 Human Rights Watch (2013), pp. 464-66.

52 HAMMARBERG (2009), §2-3.

53 *Aslakhanova and others v. Russia* ECtHR 18 December 2012 (Appl. no. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10), §80.

sources on the phenomenon. Similar to what occurred in Turkey, NGO reports and ECtHR judgments in disappearance cases are a useful tool to assess who has actually 'been disappeared'. Both sources show a trend similar to the above described situation in Turkey: the state has targeted minority group members, irrespective of their involvement in the war or resistance. In fact, the ECtHR proceedings can serve as another argument to suggest that states often aim enforced disappearances at minority groups. While crimes against minorities (specifically disappearances) are generally underreported,⁵⁴ the bulk of enforced disappearances cases decided by the ECtHR have been submitted by Chechens against Russia and by Kurds against Turkey.⁵⁵

Kashmir, which is the only majority Muslim area of India, is another example of a region where disappearances have been committed against a minority. The region has been the subject of two wars between India and Pakistan.⁵⁶ After India's independence, the area was politically neglected, and demands for independence from India led to an insurgency in 1989.⁵⁷ In the aftermath of the insurgency, the Indian state began using disappearances as a tactic. Between 1989 and 1999, as many as 3,257 persons in Kashmir are presumed to 'have been disappeared' by the Indian government.⁵⁸

A further example of disappearances committed during a conflict rooted in independence demands was Timor-Leste between 1974 and 1999. The Indonesian security forces present on the island reportedly carried out 895 disappearances of non-combatant native citizens who opposed Indonesian control.⁵⁹ The occurrence of disappearances spiked at times when opposition to Indonesian control was at its highest, such as during the formation of militias in the 1980s,⁶⁰ and during the referendum of 1999.⁶¹

In Guatemala, enforced disappearances were widespread during the civil war between 1954 and 1996. The Commission for Historical Clarification registered a total of 6,159 enforced disappearances. They did note, however, that the overall number of disappeared persons was much higher. According to the Commission, 83 per cent of the fully identified victims were Mayan.⁶² The total number of

54 Sarkin (2015), p. 122. See also UN Human Rights Council (2014) and Svetiĉic/San Too/De Leo (2012), p. 2.

55 See JÖTTEN (2012).

56 GANGULAY (2006), p. 79.

57 *Ibid.*, p. 84.

58 NAVLAKA (1999), p. 1492.

59 SILVA/BALL (2006), p. 18.

60 ROBINSON (2001), p. 300.

61 SILVA/BALL (2006), p. 49.

62 Commission for Historical Clarification (1999), p. 17.

disappeared persons is estimated at 40,000.⁶³ Among the disappeared during the whole period were persons from all social backgrounds, including workers, professionals, church members, politicians, peasants, students, and academics. In the early 1980s the focus of the army and police force was on student leaders, trade unionists and human rights activists.⁶⁴ At the same time, the Mayan indigenous minority was suspected of helping rebel groups. They were targeted by the state for that reason and Mayan peasants ‘were disappeared’ on the basis of their ethnicity.⁶⁵ The repression reached genocidal levels in the predominantly indigenous northern provinces of the country. Another South American country in which minority groups was considered to be supporting rebels was Peru. The state ‘disappeared’ people suspected to be associated with the Shining Path.⁶⁶ While the mass disappearances do not seem to follow any particular discernible pattern, two thirds of those disappeared during Peru’s conflict with the Shining Path were from the Quechua language group, which is only spoken by approximately 13 per cent of the population.⁶⁷

Widespread enforced disappearances have also accompanied the Sri Lankan civil war that took place between 1983 and 2009. Sri Lanka was named as the country with the second highest number of disappearances in the world.⁶⁸ The vast majority of victims belonged to the Tamil community. Demands by Indian Tamils in Northern and Eastern Sri Lanka for an independent Tamil state led to a large separatist movement that emerged in the early 1970s, followed by open conflict in 1983.⁶⁹ After decades of marginalisation, the Tamil population became even more frustrated with the status quo and violence erupted.⁷⁰ The open conflict throughout the 1980s led to a huge crackdown by the Colombo government, which saw tens of thousands of people (the exact number is unknown) disappearing, particularly in southern Sri Lanka.⁷¹ The government admits to approximately 16,472 disappeared people, but human rights groups estimate the number at 60,000.⁷² In many cases, bodies were found mutilated and burned, with limbs and heads severed to prevent identification.⁷³

63 GULDEN (2002), p. 27.

64 See Amnesty International (2012).

65 GULDEN (2002), p. 26.

66 Amnesty International (1991), p. 5.

67 RAYMOND/ARCE (2011), p. 557.

68 McCONNELL (2008), p. 67.

69 Amnesty International (1994), p. 16.

70 Punyasena (2003), p. 128.

71 Amnesty International (1994), p. 18.

72 Human Rights Watch (2008), p. 129.

73 Amnesty International (1994), p. 17.

In Nepal, disappearances were the 'defining violation of the conflict'.⁷⁴ It was the government that mainly perpetrated them, although the Maoists also used it as a tool at times. Between 2001 and 2003, Nepal was reported to the Working Group on Enforced Disappearances for more cases than any other country.⁷⁵ The Maoists successfully brought to their feet the most marginalized, including women, the indigenous people, and other excluded minorities. However, these groups turned out to be the most victimised: the highest number of disappearances occurred in Bardiya, a province where the indigenous Tharu people comprise the majority of the population. They are however marginalised, excluded from daily life and faced with discrimination.⁷⁶ The disappearances were justified by the need to target those perceived to be part of the Maoist threat. In rural areas, the «disappearances were encouraged by additional dynamics linked to the traditional power structures of caste, class and ethnicity that were the underlying causes of the conflict». ⁷⁷ With regard to indigenous Tharu people, this concerned a long-running conflict over land between the community and high-caste landlords who had established control over much agricultural land. Alongside the eradication of Tharu activists, the Royal Nepal Army regional leadership also wanted to enforce these traditional power relations of castes, and the disappearances that followed the declaration of the state of emergency allowed them to reach that goal.⁷⁸

Another interesting case study in this context are the enforced disappearances that occurred as a result of the annexation of Crimea by Russia in 2014. The majority of the disappeared are persons that opposed the annexation of the peninsula. These could therefore be viewed as purely political disappearances. Nevertheless, the disappeared in Crimea are overwhelmingly Tatars,⁷⁹ suggesting that the forces responsible for the disappearances are not only aiming at political opponents, but also use disappearances as a means to intimidate and frighten the Crimean Tatar minority group, who are the largest Muslim ethnic minority group in the Ukraine.⁸⁰ According to a 2014 report of the OHCHR, the situation on the peninsula has been marked by «persistent acts of intimidation targeting the Crimea Tatars». ⁸¹ Group members are more often apprehended during police raids and have been disproportionately affected by other human

74 ROBINS (2011), p. 81.

75 *Ibid.*, pp. 81-2.

76 An example of this is the fact that only 17,5% of them are literate, see ROBINS (2014), p. 107.

77 ROBINS (2011), p. 81.

78 *Ibid.*, p. 68.

79 OHCHR (2017), §99-104.

80 *Ibid.*, p. 45.

81 OHCHR (2014), §207.

rights violations, such as intrusive law enforcement raids of private property.⁸² The conclusion that can be drawn is that the very fact of a person being a Crimean Tatar in post-2014 Crimea increases the likelihood of ‘being disappeared’, independently of political involvement.

Internal conflicts take place in a specified part of the territory of a country. Usually, a minority group lives in a region of the state, where it may even constitute the majority of the population. Considering those factors, one could argue that enforced disappearances in these situations – such as concerning the South-east of Turkey, Chechnya or Kashmir – are not specifically targeted at minority group members, but at the population that inhabits the territory where hostilities are taking place. Nonetheless, minority group members are also ‘disappeared’ in other territories of the country and although there are majority group members living on that territory, they are not victims of enforced disappearances. These facts serve as further evidence to confirm that the authorities are in fact targeting minority group members regardless of their geographical location.

c) Inter-ethnic conflicts

Enforced disappearances are also committed during inter-ethnic conflicts. An inherent aspect of enforced disappearances as defined in international human rights law is the engagement of state authorities in the disappearance, at least their acquiescence to it. It may be that a state only supports one ethnic group – as occurred in South Africa, where the Inkatha Freedom Party (IFP), a political grouping comprised of people from the Zulu ethnic group, was supported by the white regime against the ANC. The state, however, supported the IFP not because it was made up of Zulus but because it was anti-ANC. It is important to note that opponents of the IFP, in the then province of Natal, were also Zulu, although the ANC in other parts of the country was mostly non-Zulu. In inter-ethnic conflicts disappearances are often committed by paramilitary groups or by militias, as occurred in Colombia. In South Africa however, the IFP hit squads killed their targets rather than forcibly ‘disappearing’ them.

In an inter-ethnic conflict, an ethnic group can be responsible for the disappearance of people from another group. The ethnic group may be the majority in a certain part of the country and is committing enforced disappearances on another group. One group may commit enforced disappearances during a particular time period, whilst the other may or may not in turn respond. Reciprocity can be a characteristic feature of disappearances in this category. Although

82 OHCHR (2017), §12, 96.

not always the case, such enforced disappearances can be part of an ethnic cleansing campaign, as seen in Bosnia and Herzegovina in the early 1990s. The political sphere of Bosnia was controlled by three major parties, which were largely representative of the three major groups in the country – Serbs, Muslims (Bosniaks) and Croats. Before the war of 1992-1995, Muslims (Bosniaks) made up the majority in the country. They wanted the country to remain as it was.⁸³ Serbs, who had lost their majority status in the country and argued strongly for secession into Serbia, feared for their weakened political position.⁸⁴ The Muslim population had grown rapidly, whilst the Serb population had decreased due to mass immigration to Serbia. As the Muslim populace began to exceed the Serbian and Croat populations, those groups feared losing their political position and being “outnumbered”. These tensions led to the genocidal attempt to wipe out the Muslim male population in Bosnia between 1992 and 1995.⁸⁵ During the conflict that followed, the ethnic cleansing that ravaged the Bosniak population was both a result of this competition and of the fears that existed between the major groups in the country. Disappearances were used as a tactic to commit genocide and, overall, about 32,000 persons are reported to have disappeared during the conflict in Bosnia alone.⁸⁶ It should be noted that in the Western Balkans the term *missing* is used rather than *disappeared* to refer to the events occurring during a war.⁸⁷ This is a misuse of the word *missing*, as the incidents are in fact deliberate, pre-meditated crimes. Disappearances occurred which conceptually can occur during times of war or peace. Using the term *missing* gives the impression that the victims whereabouts are simply unknown due to some unfortunate unknown events, when in fact the perpetrators know the whereabouts of the disappeared people, who had offences committed on them to get rid of them. The key massacre (genocide) of the war occurred in Srebrenica when nearly 6,000 Muslim men and boys were disappeared in an attempt to wipe out the Muslims in the country.⁸⁸

Another example of disappearances committed during inter-ethnic conflicts is Cyprus, where disappearances were perpetrated during inter-ethnic fighting (1963-1964) and the Turkish invasion of the island (1974). In the 1960s, the vast majority of the disappeared were Turkish Cypriots, as opposed to those in the 1970s that were almost exclusively Greek Cypriots. The official list of

83 EMERSON (1996), p. 18.

84 BRUNBORG/LYNGSTAD/URDAL (2003), p. 231.

85 SARKIN (2014), pp. 1-7.

86 SARKIN (2014), p. 11.

87 SARKIN (2015a), pp. 115.

88 BRUNBORG/LYNGSTAD/URDAL (2003), p. 240.

disappearances covers over 2,000 people.⁸⁹ During both periods the majority of the disappeared were not political activists. The disappearances were aimed at intimidating the other ethnic group and, in certain areas, at driving out its members. The issue of disappearances was exacerbated by the fact that the authorities of the Republic of Cyprus did not undertake effective investigations to clarify the fate of Turkish Cypriots ‘disappeared’ by Greek Cypriot paramilitary groups. As for the disappeared Greek Cypriots, some were detained by the Turkish army and sent to Turkish prisons.⁹⁰ Thus, the issue of disappeared persons in Cyprus is clearly linked to groups, a fact that can also be observed in the efforts undertaken after the disappearances. Families of disappeared Greek and Turkish Cypriots created separate victim associations, which were supported by the Republic of Cyprus and the authorities of Northern Cyprus, respectively.⁹¹ From this we can gather that ethnicity has been a central aspect of the disappearances and has divided attempts to resolve the issue.

Enforced disappearances also occurred in the war in Kosovo in 1999. After the peace plan was accepted, another wave of disappearances occurred. Over 5,000 persons were reported to have disappeared. The statistics of disappeared persons in Kosovo show clearly that in each period a particular group was targeted. During the Kosovo war it was the Kosovan Albanian population that was targeted. They were in fact the majority in Kosovo, but a minority in the Federal Republic of Yugoslavia. After the war, when the Kosovan Albanian population was in control of the territory, the reverse occurred. Minorities in Kosovo were targeted, as well as Kosovan Albanians who were viewed as being supportive of the previous authorities.⁹² This was done with the aim of intimidating minorities to get them to leave Kosovo, and also to punish political opponents.

The examples analysed in this section are similar to those from the previous one: in both categories, disappearances are committed during atrocities and persons are targeted because of the ethnic, national or religious group they belong to, and not their specific political involvement. Nevertheless, there are also substantial differences between the two categories. While in the second category the aim of the state seems to be to intimidate the minority group and discourage them from opposing the state and its policies, the disappearances discussed in this category have one additional goal: to expel the minority from certain territories. Such enforced disappearances can be committed in the course of ethnic cleansing, but such drastic measures are not always employed.

89 CMP Figures and statistics of Missing Persons up to 31 August 2017; available at: <http://www.cmp-cyprus.org/content/facts-and-figures>.

90 Ch. YAKINTHOU (2008), p. 19.

91 KOVRAS/LOIZIDES (2011), p. 9.

92 BRASEY (2010), pp. 163-8.

Another specific feature of this category is reciprocity – both sides of a conflict are committing enforced disappearances and often are phrasing them as revenge or as the necessity to “get them first”.⁹³ Such cases are usually also better recorded and described than disappearances from the second category, as each involved state and community demands information about the disappeared from their own group.

2. The Overlapping Reasons for Perpetrating Genocide and Enforced Disappearances

This section argues that genocide and disappearances are perpetrated for similar reasons and have a number of overlapping features. At times enforced disappearances are a tool to commit genocide. In this regard, the case of Guatemala is a good example. However, not all disappearances happen in the context of genocide, nor all genocides use disappearances. Sometimes there is no connection between the two.

One of the major issues that affect both crimes is denialism.⁹⁴ While denials are a common feature of genocide, they are a part of what is a definitional component of a disappearance. As far as genocide is concerned, Stanton has argued that denial is often the “final stage of genocide.”⁹⁵ He argues that perpetrators «deny that they committed any crimes, and often blame what happened on the victims ... The black hole of forgetting is the negative force that results in future genocides.»⁹⁶ This is the same for disappearances except that those denials in fact encompass what the crime is about.

In regard to genocide, Helen Fein states that there are four main reasons for perpetrating it.⁹⁷ Firstly, it is perpetrated to “eliminate a real or potential threat”. Fein calls this the “retributive” motivation for genocide. When one group is convinced that its existence is threatened by another group, it may feel that it has no other choice but to destroy the competing group. This boils down to a “we have to get them before they get us” attitude. Secondly, genocide is perpetrated to “spread terror among real or potential enemies”. This is to say that carrying out systematic efforts to destroy one group of enemies can send to other potential enemies a clear signal of what may happen to them should they behave similarly to the attacked group. Fein calls this motivation “pre-emptive.”

93 See for example the situation in Bosnia and Herzegovina.

94 For more on denialism see FRONZA (2018).

95 See further CHARNY (2000), pp. 15-39.

96 Stanton, 1998.

97 FEIN (2007), pp. 125-156.

Thirdly, Fein argues that genocide occurs to acquire economic wealth. If a group (for instance, an indigenous people) stands in the way of economic progress, then it may “make sense” to simply get rid of the group that is perceived to be an obstacle. Fourthly, genocide may be performed to “implement a belief or ideology”. The goal may be to create a pure race, or it may be to create a utopian society. At any rate, the perception is that the only way to deal with those who do not fit the ideal is to destroy them.⁹⁸

In the next part of this article, Fein’s reasons for genocide are applied to enforced disappearances to indicate that, in fact, there are tremendous overlaps and interconnections between genocides and disappearances in the way that they target similar groups for similar reasons.

a. Retributive Motivation for Enforced Disappearance

Genocide instils fear into groups against whom it is perpetrated, which can be used to control them in the future.⁹⁹ This is a powerful motivator for genocide, as the ruling political class looks to homogenise society by removing all groups that differ from their own.¹⁰⁰ This is an intuitively difficult concept to get to grips with, as many hetero-ethnic societies have existed throughout history – many of them with conflict and competition between those varying ethnicities – but it is very rare to find a case of one group committing genocide against another with the oversimplified perspective of setting a precedent of fear in order to gain long-term control.¹⁰¹

Fear can be a powerful motive for both genocide and disappearances. From the perspective of the group conducting the genocide, they typically perceive the other group to be a threat to their own group’s existence.¹⁰² This creates a mentality of preventive massacring, wherein “they” have to be killed before the same thing happens to “us”.¹⁰³

Minorities are often victimised by disappearances due to their political allegiances, which the ruling party in the state views as a threat. Distinct to demands for independence, these groups operate within the legitimate bounds of the state’s political system, but are targeted because of their political beliefs. Importantly, this group is not limited to ethnicity, race or religion, but can spread widely

98 FEIN (1993), p. 79.

99 FEIN (1993), p. 99.

100 *Ibid.*

101 *Ibid.*, p. 98.

102 CHIROT/McCAULEY (2006), pp. 31-2.

103 *Ibid.*, p. 32.

across the basic social hierarchy, based on the political ideology people attach themselves to, or are perceived to be attached to. As a result, this group is often made up of smaller groups such as students or prominent political spokespeople, or even just civilians in support of an unpopular ideology. Multiple cases of this scenario can be seen even in the most recent history of genocide, as in the ethnic cleansing which ravaged Bosnia in the early 1990s or during the civil war in Guatemala. Similarly, part of what occurred in Rwanda was disappearances, although the main focus was genocide. In Rwanda, the Hutu government feared for its own survival and so aimed to eliminate all Tutsi and Twa before the Rwandan Patriotic Front could win the civil war that had been raging for four years before the genocide began.¹⁰⁴

Discrimination and fear of discrimination against other groups is often cited as a reason for mass killings and disappearances. Conflict is rarely as simple as that, and further explanation can be found by expanding the focus beyond the simple classification as being ethnically different, particularly in cases where a person's ethnicity is not immediately noticeable. People of different ethnicities have lived side by side without conflict in thousands of cases throughout history, and so a more explicit reason or push factor needs to be identified to explain the sparking of conflict.

The dominance of one ethnicity is something that is at times feared, as it allows the government, which makes all decisions, fills prominent positions, and allocates the budget, to give bias and dominance in the state to the grouping that it is composed of.¹⁰⁵ It is understandable then that a particular group would foster conflict when they feel they are being politically, socially or economically excluded.

Fear is not necessarily limited to cases where the existence of the dominant group is in question, but can have more limited reasons, such as when a group demands independence from a state that has historically denied them their rights and persecuted them. An example of this would be the Kurdish people in Iraq.¹⁰⁶ The Iraqi government refuses to accede to Kurdish requests for greater autonomy, for a number of reasons. Iraqi Kurdistan is an oil and water rich region of Iraq, giving it great economic value. It would deprive Iraq of those resources but would also make the Kurdish people a potentially rich and powerful new country.¹⁰⁷ Allowing the separation of Kurdistan from Iraq would therefore significantly weaken the state.

104 HINTJENS (1999), p. 249.

105 WEIDMANN (2011), p. 1181.

106 DONOVAN (2006), p. 8.

107 GUNTER (2004), p. 197.

b. Pre-emptive Motivation for Enforced Disappearance

Genocide is sometimes a reaction to military defeat or some other form of political humiliation. On occasion there are demands that the wounded pride of the defeated group must be avenged, and their honour restored.¹⁰⁸ Military powers have at their core a system of principles that are often focused on the ideals of honour and pride. When these concepts appear to be contravened by an opposing group, this can provide a rationalisation for seeking revenge on them.¹⁰⁹ Not only it is the perfect pretext for retaliatory violence, it also sets a daunting precedent to any group foolish enough to challenge the might of the ruling group again in the future. This ensures that everyone knows that the consequences would be swift and ruthless. An example is the case of Julius Caesar's brutal conquering of Gallic territories. This saw his Roman forces wipe out many tribes to ensure there would be no uprising or opposition in the future.¹¹⁰ This is a tactical long term strategy, and in the case of the Romans, was essential to ensuring the survival of their empire because their large number of colonies and territories held many potential enemies and detractors, who needed to be consistently reminded of the might of the empire and the consequences of going against it.¹¹¹

Similarly, enforced disappearances have also been committed to spread terror among enemies. A good example is the Nazi policy of 'disappearing' members of the resistance in occupied territories. As stated in the decree implementing the policy *Nacht und Nebel Erlass* from 1941, not releasing any information about the prisoners' fate was an inherent part of the procedure. This was done with the aim of promoting an atmosphere of mystery, fear and terror among the population in occupied territories in order to keep them quiet.¹¹² Field Marshal Wilhelm Keitel, who was convicted among others for his role in implementing the decree, explained its purpose in a cover letter attached to it: «The Führer is of the following opinion: if these offences are punished with imprisonment, even with hard labor for life, this will be looked upon as a sign of weakness. Efficient and enduring intimidation can only be achieved either by capital punishment or by measures by which the relatives of the criminal and the population do not know the fate of the criminal.» (emphasis added). Therefore, the decree had – as is consistent with enforced disappearances in other situations – two goals: first, to remove the prisoner from the protection of the law. Second, to serve as a form of general deterrence, achieved through the intimidation and anxiety caused by

108 CHIROT/McCAULEY (2006), p. 26.

109 *Ibid.*

110 *Ibid.*

111 *Ibid.*

112 CRANKSHAW (1990), p. 204; See also KADEN/NESTLER (1993), pp. 162-3.

the continuous uncertainty of the disappeared persons' family.¹¹³ The possibility to intimidate entire communities is one of the reasons why authorities target a group by choosing to commit enforced disappearances.

c. Acquiring Economic Wealth as a Motivation for Enforced Disappearance

The aspirations of one group to dominate and control the economy of their country can be both a push factor towards genocide as well as a pull factor away from it. The push factor can be broken down into two categories: firstly, increasing competition due to a lack of resources, coupled with the "us versus them" mentality, may 'force' of one group to massacre the other or to 'disappear' each other.¹¹⁴ The huge drop in worldwide coffee prices and strict conditions applied by the IMF for the loans provided to the government led to a massive economic downturn in Rwanda before the 1994 genocide. This led to increased tension between the ethnicities as people battled for the largest share of the available resources.¹¹⁵ These issues were contributing factors to the genocide. The second type of pull factor occurs if a group is occupying land or resources which another group wishes to appropriate and benefit from economically. Then there can be a strong incentive to destroy those current occupants. The economic pull factor away from mass killings is applied in the case where the group at risk of genocide provides an essential part of the workforce for the dominant group to economically benefit from. On the other hand, if the threatened group refuses to be subdued and will not do the work of the dominant group, they could be simply eliminated because their presence is not economically viable and is therefore inconvenient. Thus, there are occasions when there are no economic incentives to keep a group around it is in the best interests of the dominant group to simply eradicate the group.

Norman M. Naimark argues in his book, *Genocide: A World History*¹¹⁶ that: «where resources are limited, or where pressures are placed on societies because of political or economic instability, relations may degrade. This can lead one group to become convinced that many of its problems are the fault of another group, and that all of those problems would be resolved if only the other group no longer existed.» Such reasoning can also be an incentive for enforced

113 FINUCANE (2010), pp. 6-8.

114 CAMPBELL (2009), p. 165.

115 CHOSSUDOVSKY (1996), p. 939.

116 NAIMARCK (2017), p. 5.

disappearances, as has already been discussed in the earlier example of Iraq and the Kurdish minority.

Persons of Uyghur origin have been victims of enforced disappearances committed by Chinese authorities. The region where the Uyghurs live has become a key asset for China in their “Go West” Policy that aims at securing as much influence as possible in Central Asia. That area is however also known for its gas and oil reserves. In addition to these reasons, the Chinese government wants to use the region to establish a new “Silk Road”, which would pass through the ancient Uyghur city of Kashgar.¹¹⁷ As a result, the Uyghur population is being discriminated by the Chinese government.¹¹⁸ They are restricted in their religious practices, stigmatized, and subject to arbitrary arrests and imprisonment, sometimes leading to torture and/or death. Uyghurs are under particular threat of enforced disappearance, often subject to detention and torture for alleged “separatist activities.”¹¹⁹

Enforced disappearances are potentially dangerous for communities who have collective economic, social and cultural rights. A disappearance of one of their group leaders can have very serious consequences beyond the disappearance itself: it might lead them to be unable to perform their cultural customs, which leads to them not being able to live a certain cultural life.¹²⁰ Especially in states with “inadequate legislation to protect housing or to provide recognition of legal establishment on certain territories to indigenous, rural, and ethnic-minority groups”, the latter may be more exposed to land-grabbing and forced evictions. As indigenous people, ethnic groups and rural workers living on such lands most of the time have no possibility to fall back on methods to challenge these crimes, they can become homeless or displaced. Should they resist these violations, they may be exposed to an increased possibility of enforced disappearance.¹²¹

In the case that a group’s presence in a country hinders the economic or political aspirations of another, more powerful group, mass killings, disappearances and genocide may be viewed as the most convenient and simplest way to dispose of the obstructive group. Whilst in some cases the obstructing group may be assimilated, bullied or bribed into co-operating with the dominant group’s demands, it is often easier to simply massacre them all.¹²² William the Conqueror’s massive campaign of politically motivated killings in Yorkshire was put into action

117 MACKERRAS (2015), pp. 25-42.

118 Human Rights Watch (2009), p. 9.

119 *Ibid.*, p. 41.

120 Human Rights Council (2015), p. 12, §40-41.

121 Human Rights Council (2015), p. 6, §13.

122 CHIROT/McCAULEY (2006), p. 20.

after he tried to assimilate the local population into his kingdom, offering them positions of power and nobility. Eventually, however, their continued resistance became too much of an inconvenience to deal with, so he simply exterminated them.¹²³ Convenience is therefore a causal factor in why *genocide specifically* is the way in which a group is removed, rather than the root cause of tension between groups. Many groups have the ability to easily wipe out one another, but sufficient incentive to remove the other group must exist in the first place, and then genocide is often simply the easiest way to go about it. This is a similar line of reasoning that leads to the occurrence of disappearances.

d. Implementing a Belief or Ideology

The disappearance of people who represent conflicting political ideologies to the ruling group – whether in the case of outright war, or an oppressive regime looking to cement its hold over their population – is an effective tactic for ensuring that people fall in line with the ruling government. ‘Disappearing’ political opponents sends a clear message to anybody intending to challenge the government. In an open conflict between two clearly defined sides, the arbitrary nature of disappearances is a very effective tool for spreading fear – journalists, lawyers, humanitarian aid workers, and any and all people associated with “the other side” are at risk, as well as every day civilians.¹²⁴ This has occurred to lawyers in China and Thailand.

In a similar vein, opposition groups to the dominant ideology are targeted in order to allow the government or group in charge to spread its political ideology without any opposition, such as the case of the massacres of Communist Party members and anyone suspected of being a communist in Indonesia in 1965 and 1966. One of the means employed were enforced disappearances.¹²⁵

For similar reasons, groups such as the Maya in Guatemala ‘were disappeared’. The Mayan Genocide of 1977-1986 saw the targeting of the Mayan people, who were suspected of helping rebel groups, by government forces.¹²⁶ The government accused the Mayan people, most of which confined to rural agricultural work, of attempting to overthrow the government and replace it with

123 *Ibid.*

124 ADAMS (2005), p. 122.

125 CHIROT/McCAULEY (2006), p. 38.

126 GULDEN (2002), p. 26.

a communist regime.¹²⁷ Nearly 40,000 people ‘were disappeared’ during this time, 83 percent of which were Mayans.¹²⁸

3. When do States Choose to Perpetrate Enforced Disappearances on Groups

The main goal of genocide is to eliminate a group that somehow threatens the interests of another, in order to capture complete control of a country by the group committing genocide. Disappearances can be said to have a similar end goal, that of controlling the “other” population group. Disappearances cause terror and intimidation. This fear is nurtured by a government, often to ensure that a particular group does as it is told, and does not oppose the state.

Importantly, disappearances require far less work for the dominant group or government than committing genocide. They can achieve similar goals without forcing the government into the costs associated, or to take on responsibility for the crimes committed. As previously discussed, there are great potential benefits to genocide for a government, but a series of obstacles hold them back from such large-scale killings. With this in mind, the next part of the discussion revolves around how exactly disappearances circumvent these obstacles whilst still achieving the goal of controlling the population.

a. Capacity / Costs

Mass killings are used to spread terror, but typically require large organizational capacity and massive public participation. This does not usually occur naturally, and demands an active effort on behalf of the government to plan the indoctrination of its population on a large scale, as can be seen in the Pancasila Youth indoctrination programmes in Indonesia. This programme taught children as young as junior school level to hate certain groups such as communists, and encouraged them to join paramilitary groups.¹²⁹ Whilst this type of strategy is achievable, it is rare that a government is able to inspire such a large portion of the population to arms; however, it has occurred in places like Rwanda in 1994. The state usually relies on their military, as illustrated by the Cambodian genocide where the army was used to slaughter the population.¹³⁰ Soldiers are

127 AKHAVAN (2016), p. 245.

128 GULDEN (2002), p. 27.

129 WEATHERBEE (1985), p. 134.

130 RASZELENBERG (1999), p. 67.

however often reluctant to kill large numbers of innocent civilians in cold blood, and have to be trained and desensitised to the epic proportions of violence they are expected to conduct during war or genocide.¹³¹

Mass killings and genocide carry very high risks and costs for those involved. The most obvious risk of genocide is to life of those involved in the conflict, no matter how one sided it is.¹³² Other negative effects include damage to infrastructure, the environment and to natural resources, such as occurred during the Rwandan genocide, which saw lasting damage done to the economy.¹³³ Disappearances do not necessarily have to carry such large costs, as people are usually kidnapped and hidden away, and as such pose very little physical threat to their kidnapper.

Disappearances remove the most difficult steps in this regard: they do not have to happen on the massive scale of a genocide in order to inspire fear, they can be carried out by a much smaller group of people, and they require no public participation at all. The “middle man” has been cut out, as mass and public participation is not required and the same level of fear-based control is achieved by a smaller, more concentrated group of soldiers, hardened to their brutal task, such as those in Eugene de Kock’s infamous C1 group during the Apartheid system in South Africa. Those types of police officers did most of the “dirty work”.¹³⁴ As opposed to genocide, which due to the large scale of the operation requires the active participation of most of the country’s security forces, if not a large part of the civilian population, disappearances can be conducted by a much smaller group of specialized perpetrators. As a result, a convenient factor of disappearances is that they can be conducted on a small enough scale so as not to disrupt day-to-day life, but enough to spread terror among the population and discourage any sort of opposition.

b. Democratic Barriers to Genocide

As the nature of enforced disappearances is to give the government in question plausible deniability about its role in the kidnapping, torture and murder of the targeted people, this strategy provides a foil with which the government can maintain its image of being democratic and respecting the law.¹³⁵ This is clearly illustrated in countries where high numbers of disappearances are common,

131 CHIROT/McCAULEY (2006), p. 54.

132 *Ibid.*, p. 98

133 See MOODLEY/GAHIMA/MUNIEN (2010).

134 ELLIS (1998), p. 269.

135 DIETERICH (1986), p. 46.

despite seemingly strong democratic practices, such as in Sri Lanka's Tamil independence war, where despite being a society of traditionally strong civil liberties that adhered well to democratic principle, thousands of disappearances and extrajudicial killings have taken place.¹³⁶

4. What Disappearances Cannot Achieve

Disappearances are clearly an excellent strategy for spreading fear amongst a population, as illustrated by Argentina's "Dirty War", which saw a massive number of people 'disappeared' by the military *junta*. This allowed the military regime to maintain strict control over the country between 1976 and 1980.¹³⁷ It is, however, rare to find a situation where that fear has not led to an uprising or has been an effective long-term oppression strategy. By comparison to genocide, where the targeted group is entirely wiped out and is completely unable to fight back or to be a threat in the future, disappearances leave a large enough portion of the population alive that can continue to fight back. This is the case in Sri Lanka, where despite record numbers of disappearances conducted by both sides, the Tamil separatists were not subdued by the Colombo government until 2009, when the government wiped out a large number of those involved in the rebellion that had endured for 25 years.¹³⁸ Despite being the target of massive disappearance campaigns for the last half a century, Kurdish people in Iraq are still battling for their autonomy.¹³⁹ Disappearances are seemingly not enough in and of themselves to be the only tool that a government uses to subversively control the population of the country. Disappearances then appear to be most useful as a supplementary tool of a larger campaign of violence against particular groups.

5. Preventing disappearances of group members

As can be seen from the various discussed above examples of disappearances that have been carried out, individuals from a range of different groups are often marked for enforced disappearance. These persons are targeted for various of reasons, as noted above.

136 PFFAFENBERGER (1986), pp. 160-1.

137 OSIEL (2001), p. 120.

138 PFAFFENBERGER (1988), p. 160.

139 FULLER (1993), p. 108.

The issue considered here therefore is how to prevent such types of practices from happening again in the future and what steps can be taken to deal with such occurrences ought to occur.

Below, a number of steps are suggested to deal with these issues. However, there is a need for more prevention and reaction strategies. It also needs to be asked whether the international human rights and humanitarian law frameworks provide enough legal tools to do that? Certainly, what is needed is greater coherence between the two and for both to deal adequately with the problems raised by disappearances.

As far as the steps that need to be taken to ensure that disappearances against groups are less likely to occur in states where they have occurred previously much needs to be done.¹⁴⁰ These steps must include, for instance, more obligations placed on states where they occur – to deal with their prevalence and prevent them from occurring in the future.¹⁴¹ As a result, a lot can be done at international and regional level to ensure that there are sufficient processes in place to take heed when there is an uptick in disappearances in a state. There needs to be sufficient coordination between the various processes and institutions that focus on such matters. There needs to be greater coordination between the Committee on Enforced Disappearances and the Working Group on substantive matters concerning disappearances in certain countries, particularly when new patterns emerge. These institutions should also be closely coordinating with the UN's Special Advisor on Genocide, who ought to have a wider mandate: mass atrocities including ethnic cleansing, disappearances, crimes against humanity etc., as often these crimes overlap and ought not to be separated from each other. Obviously, resources will need to be increased, but as the Office is so small a few extra staff will not be prohibitively costly. Above all, it is the effectiveness of the processes and their ability to intervene and call on others to intervene that is crucial. This is to say, the ability to get access to the Security Council, the Human Rights Council, the General Assembly and regional institutions is of critical importance. In this context, article 34 of the ICPPED can be applauded. This provision gives the Committee on Enforced Disappearances the possibility to “urgently bring [...] to the attention of the General Assembly of the United Nations” any information that enforced disappearances are possibly being practiced extensively or systematically. The Committee, before presenting such information to the UN GA, must ask the State Party to provide any relevant information on the situation. The Committee is the only treaty body with the competence to urgently present human rights violations to UN GA, but the

140 SARKIN (2015b), p. 21.

141 SARKIN (2013), p. 20.

authors of the Convention, in establishing such a competence, relied on other human rights instruments which provide for bringing the practice of grave crimes to the attention of UN political bodies.¹⁴² The Committee has not yet applied this procedure. Importantly, for the procedure to be effective, the GA must act upon the information brought by the Committee. Nevertheless, looking at previous situations, the GA, as well as the Security Council and the Human Rights Council need to be far more robust than they have been, and be willing to take action quickly. There is often a reluctance to act, especially in the Security Council, when certain states are involved. The political will to do so is often absent for reasons of state interest in a particular area in the world. As a result, a mechanism needs to be found to solve the present problems that allow the veto to be used to stop humanitarian intervention or the responsibility to protect when such atrocities are occurring. There is also a range of other actors that can and often do play a role, including international NGOs and local civil society. The media has an important role, in publicising such acts and bringing them to the attention of opinion makers and the international community.

At the state level there has been some progress in dealing with disappearances over the last decade, as a result of the drafting of the International Convention for the Protection of All Persons from Enforced Disappearance that was completed in 2006. Since then, 58 countries have ratified it. It did however only come into force in December 2010 as it took four years for the requisite 10 states to ratify it. However, few of the 58 states that have ratified the Convention are states where there are many current cases of disappearances. The majority of the ratifying states are states that today usually do not have or had these cases many years ago. The commitment by states where there are currently no problems is clear, but such pledges are not so evident from the states where disappearances are taking place in the present day. However, the fact that 58 countries ratified the Convention is just a first step and much needs to be done to incorporate the provisions and ensure compliance in a variety of ways. Which must include prosecutions and other steps to ensure that disappearances do not take place. Where states have not ratified the Convention, they need to be pressurized into cooperating fully with the Working Group on Enforced or Involuntary Disappearances (WGEID). As the group has a universal focus and jurisdiction, it can deal with all countries, even those who largely remain outside the oversight mechanisms of the UN. However, the noncompliant states such as the

142 See the Report of the Intercessional Open-ended Working Group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, 10 March 2005, E/CN.4/2005/66, §139; this concerned the procedures provided for in the Convention on the Prevention and Punishment of the Crime of Genocide, Art. VIII (Journal of Laws of 1952, No. 2, item 9) and the International Convention on the Suppression and Punishment of the Crime of Apartheid, Art. VIII (Journal of Laws of 1976, No. 32, item 186).

Democratic People's Republic of Korea do not engage with the substance of the problems, so ways to ensure that they do cooperate and adapt their behaviour must be found. While a variety of measures such as sanctions are used at times, usually they are not for disappearances. Again, while the US has used sanctions for human rights violations committed by the DPRK, when it came to negotiate with the regime the focus was on denuclearisation and not the violations that have occurred over decades. As in many other places, the state that carries out these practices does not feel a great deal of pressure to desist. While the IMF and other institutions like the World Bank often see themselves as apolitical or not having a human rights role, they can in fact have a great deal of effect on states that need international financing. Regional actors can also play key roles, as states are usually more receptive to regional pressure. However, some regions help such states to avoid adequate scrutiny and more ought to be done to ensure that regional institutions do not allow such states to escape sufficient oversight. Prevention has to be a major goal when dealing with disappearances. Groups that are targeted for this type of practice have few resources and means to guard themselves against them. They cannot put adequate security in place and, therefore, it has to be international actors that are to be vigilant and take sufficient steps. This does also mean that more needs to be done to deal with the political problems that cause the disappearances. It means that the underlying tensions and political turmoil that exist need to be tackled. It means that land and other resource matters that have caused the instability need to be resolved as far as possible. Promoting reconciliation, national cohesion, nation building etc. can help address the underlying conflicts which, if resolved, can see disappearances as a tool no longer being used.

However, a range of other tools to prevent and deal with disappearances that have occurred needs to be put in operation in all states. There are so many on-going conflicts, and so many places where continual human rights violations are occurring, that much more needs to be done during these crises to reduce the violations committed. Transitional justice processes, for example, should not wait for the conflicts to end before being established.¹⁴³ There is also the matter of training and disciplining those in a position to carry out such crimes, as well as taking steps administratively to stop short-term disappearances or placing people in places where they are outside the law. When it comes to groups, much more needs to be done by the international community. Early warning signs need vigorous and energetic responses. The media need to be used to name and shame states that use the practice or allow these crimes to occur in their territory.

143 SARKIN (2018b), p. 1.

Conclusion

At present, while genocide is considered to be a crime perpetrated on groups, disappearances are seen to be committed against individuals. Until now these crimes have been seen as separate and distinct. This article has attempted to show that often genocide and disappearances are committed against the same groups of people and at times overlap in terms of whom they are used against. There are commonalities and interconnections as to when disappearances and genocides are committed. Understanding better when they occur and where they are likely to occur is important as to prevent and deal with the consequences of disappearances. Having a better theoretical understanding about what they are and when they occur is important. Understanding the causes means that better steps can more likely be taken to prevent such actions. It certainly can begin to set up processes to establish early warning systems about where disappearances are possibly going to occur. A constant exchange of information between bodies dealing with disappearances and genocide would be of great advantage.

Critically, practical steps are required to protect groups specifically against disappearances and to take steps when they do occur. Giving voice to groups is one of the crucial steps. While most international mechanisms are centred on individuals, in some situations – like enforced disappearances committed against minority group members – representatives of a group can shed light on the human rights violations and their pattern. Local NGOs are often well informed and in touch with the families of disappeared persons. They can be actors who bring the voice of minorities to international forum and inform victims about possible mechanisms. In this context, strengthening the voice of NGOs and allowing them access to the UN and regional bodies is a step in the right direction. Nevertheless, also in this area there is much to be done. Resources and political will are, it must be noted, often obstacles to doing so.

Bibliography

- ADAMS, B, 2005, "Nepal at the Precipice", *Foreign Affairs*, vol. 84, number 5, pp. 121-134.
- AGUILAR, Paloma, and KOVRAS, Iosif, 2018, "Explaining disappearances as a tool of political terror", *International Political Science Review*, pp. 1-16.
- AKHAVAN, P, 2016, "Cultural Genocide: Legal Label or Mourning Metaphor?", *McGill Law Journal*, vol. 61, number 4, pp. 243-272.
- AMNESTY INTERNATIONAL, 1994, "Disappearances" and political killings: Human rights crisis of the 1990s. A manual for action", available at <https://www.amnesty.org/download/Documents/184000/act330011994en.pdf>.
- AMNESTY INTERNATIONAL, 1995, "Turkey: A policy of denial", available at <https://www.amnesty.org/download/Documents/176000/eur440011995en.pdf>.
- AMNESTY INTERNATIONAL (2012), *City of the Disappeared – three decades of searching for Guatemala’s missing*, in <https://www.amnesty.org/en/latest/news/2012/11/city-disappeared-three-decades-searching-guatemala-missing/> (date accessed 10 February 2014)
- AMNESTY INTERNATIONAL (2014), Nepal: Deliver justice for "Disappeared", in <https://www.amnesty.org/en/press-releases/2014/08/nepal-deliver-justice-disappeared/> ((date accessed 14 September 2016))
- ARDITTI, Rita, 1999, *Searching for life: The Grandmothers of the Plaza de Mayo and the Disappeared Children of Argentina*, University of California, San Francisco.
- ASLAKHANOVA AND OTHERS V. RUSSIA, ECtHR 18 December 2012 (Appl. no. 2944/06, 8300/07, 50184/07, 332/08 and 42509/10)
- BAYDAR, Gülsüm and IVEGEN, Berfin, 2006, "Territories, Identities, and Thresholds: The Saturday Mothers Phenomenon in Istanbul", *Signs*, vol. 31, number 3, pp. 689-715.
- BAYLEY, David H., 2008, "Post-conflict police reform: Is Northern Ireland a model?", *Policing*, vol. 2, number 2, pp. 233-240.
- BRASEY, Valérie, 2010, "Dealing with the Past: The forensic-led approach to the missing persons issue in Kosovo", *Politoribus*, vol. 50, number 3, pp. 161-169.
- BRODY, Reed, and GONZALEZ, Felipe, 1997, "Nunca Más: An Analysis of International Instruments on "Disappearances", *Human Rights Quarterly*, vol. 19, number 2, pp. 365-405.
- BRUNBORG, Helge, LYGSTAD, Torkild Hovde, and URDAL, Henrik, 2003, "Accounting for Genocide: How Many Were Killed in Srebrenica?", *European Journal of Population / Revue Européenne de Démographie*, vol. 19, number 3, pp. 229-248.

- CALI, Başak, 2010, "The logics of supranational human rights litigation, official acknowledgment, and human rights reform: the Southeast Turkey cases before the European Court of Human Rights", *Law and Social Inquiry*, vol. 35, number 2, pp. 311-337.
- CAMPBELL, Bradley, 2009, "Genocide as Social Control" *Sociological Theory*, vol. 27, number 2, pp. 150-172.
- CASSIA, Paul Sant, 2006, "Guarding Each Other's Dead, Mourning One's Own: The Problem of Missing Persons and Missing Pasts in Cyprus", *South European Society and Politics*, vol. 11, number 1, pp. 111-128.
- CHAPMAN, Arthur *et alii*, 2011, *Thinking Historically about Missing Persons*, Nikozja: Association for Historical Dialogue and Research.
- CHARNY, Israel W., 2000, "Innocent denials' of known genocides: A further contribution to a psychology of denial of genocide (reversionism)", *Human Rights Review*, vol. 1, number 3, pp.15-39.
- CHILEAN NATIONAL COMMISSION ON TRUTH AND RECONCILIATION, 1993, "Report of the Chilean National Commission on Truth and Reconciliation", *Notre Dame, Indiana: University of Notre Dame Press*, available at https://www.usip.org/sites/default/files/resources/collections/truth_commissions/Chile90-Report/Chile90-Report.pdf. (date accessed 19 September 2017)
- CHIROT, Daniel and McCauley, Clark, 2006. *Why Not Kill Them All?*, Princeton University Press, Princeton.
- CHOSSUDOVSKY, Michel, 1996, "Economic Genocide in Rwanda", *Economic and Political Weekly*, vol. 31, number 15, pp. 938-941.
- CITRONI, Gabriella and Scovazzi, Tullio, 2007, *The struggle against enforced disappearance and the 2007 United Nations Convention*, Martinus Nijhoff, Leiden and Boston.
- CMP, *CMP Figures and statistics of Missing Persons up to 31 August 2017* in <http://www.cmp-cyprus.org/content/facts-and-figures>.
- COMMISSION FOR HISTORICAL CLARIFICATION (1999), *Guatemala – Memory of Silence, Report of the Commission for Historical Clarification, Conclusions and Recommendations*, in 18/5/2017 from https://www.aaas.org/sites/default/files/migrate/uploads/mos_en.pdf (18.05.2017).
- CRANKSHAW, Edward, 1990, *Gestapo: Instrument of Tyranny*, Greenhill Books, London.
- CRENZEL, Emilio, 2011, "Between the voices of the state and the human rights movement: Never again and the memories of the disappeared in Argentina", *Journal of Social History*, vol. 44, number 4, pp. 1063-1076.
- DAVIS, David R. and WARD, Michael D., 1990, "They Dance Alone: Deaths and the Disappeared in Contemporary Chile", *Journal of Conflict Resolution*, vol. 34, number 3, pp. 449-475.

- DIETERICH, Heinz. 1986, "Enforced Disappearances and Corruption in Latin America", *Crime and Social Justice*, number 25, pp. 40-54.
- DONOVAN, Shane, 2006, "Kurdistan: The Elusive Quest for Sovereignty", *Harvard International Review*, vol. 28, number 3, p. 8.
- ELLIS, Stephen, 1998, "The Historical Significance of South Africa's Third Force", *Journal of Southern African Studies*, vol. 24, number 2, pp. 261-299.
- EMERSON, Peter, 1996, "Where No-One Has a Majority", *Fortnight*, number 355, pp. 18-19.
- FALBEL, Rita and KLEPFISCH, Irena, 1990, *Jewish Women's Call for Peace: A Handbook for Jewish Women on the Israeli/Palestinian Conflict*, Firebrand Books.
- FEIN, Helen, 1993, "Accounting for genocide after 1945: Theories and some findings", *International Journal on Group Rights*, vol. 1, number 2, pp. 79-106.
- FEIN, Helen, 2007 *Human Rights and Wrongs: Slavery, Terror, Genocide*. Boulder, CO: Paradigm Publishers.
- FINUCANE, Brian, 2010, "Enforced Disappearance as a Crime Under International Law", *Yale Journal of International Law*, vol. 35, number 1, pp. 171-197.
- FRONZA, Emanuela, 2018, *Memory and Punishment. Historical Denialism, Free Speech and the Limits of Criminal Law*. Asser Press.
- FULLER, Graham E., 1993, "The Fate of the Kurds", *Foreign Affairs*, vol. 72, number 2, pp. 108-121.
- GANGULY, Sumit, 1996, "Explaining the Kashmir Insurgency: Political Mobilization and Institutional Decay", *International Security*, vol. 21, number 2, pp. 76-107.
- GIORGOU, Irena, 2013, "State Involvement in the Perpetration of Enforced Disappearance and the Rome Statute", *Journal of International Criminal Justice*, vol. 11, number 5, pp. 1001-1021.
- GO-I, Uki (1999), Jews targeted in Argentina's dirty war, in <https://www.theguardian.com/theguardian/1999/mar/24/guardianweekly.guardianweekly1>
- GULDEN, Timothy R., 2002, "Spatial and Temporal Patterns in Civil Violence: Guatemala, 1977-1986", *Politics and the Life Sciences*, vol. 21, number 1, pp. 26-36.
- GUNTER, Michael M., 2004, "The Kurdish Question in Perspective", *World Affairs*, vol. 166, number 4, pp. 197-205.
- GUNTER, Michael M., 2013, "The Turkish-Kurdish Peace Process", *Georgetown Journal of International Affairs*, vol. 14, number 1, pp. 101-111.
- HAFIZA MERKEZI, Web page of Hakikat Adalet Hafiza Çalışmaları Merkezi in <http://www.zorlakaybetmeler.org>.
- HALL, Christopher, 1999, "Article 7: Crimes against Humanity", in *Commentary on the Rome Statute of the International Criminal Court: Observers'*

- Note, Article by Article*, Otto Triffterer (ed.), Beck and Hart, Baden-Baden, pp. 117–172.
- HAMMARBERG, Thomas, 2009, “Report by the Commissioner for Human Rights of the Council of Europe Following his visit to the Russian Federation (Chechen Republic and the Republic of Ingushetia)”, CommDH(2009)36.
- HAQUE, Mozammel, 1991, “Muslim Kashmir Facing Genocide”, *Pakistan Horizon*, vol. 44, number 3, pp. 43-53.
- HABERKORN, Tyrell. (2018). *In Plain Sight: Impunity and Human Rights in Thailand*. University of Wisconsin Press, Madison.
- HERTZ, Deborah, 1997, “The Genealogy Bureaucracy in the Third Reich”, *Jewish History*, vol. 11, number 2, pp. 53-78.
- HINTJENS, Helen M., 1999, “Explaining the 1994 genocide in Rwanda”, *Journal of Modern African Studies*, vol. 37, number 2, pp. 241-286.
- HUGHES, Edel, 2010, “The European Union Accession Process: Ensuring the Protection of Turkey’s Minorities?”, *International Journal on Minority and Group Rights*, vol. 17, number 4, pp. 561- 577.
- HUMAN RIGHTS WATCH, 2004, “The United States’ “Disappeared”: The CIA’s Long-Term “Ghost Detainees””, *A Human Rights Watch Briefing Paper*.
- HUMAN RIGHTS WATCH (2008), “*Recurring Nightmare – State Responsibility for “Disappearances” and Abductions in Sri Lanka*”, in <https://www.hrw.org/report/2008/03/05/recurring-nightmare/state-responsibility-disappearances-and-abductions-sri-lanka> (21.05.2017).
- HUMAN RIGHTS WATCH, 2009, ““We were afraid to even look at them” – Enforced Disappearances in the Wake of Xinjiang’s Protests”, *Human Rights Watch Group*, New York.
- HUMAN RIGHTS WATCH, 2013, *World Report 2013*, available at <https://www.hrw.org/world-report/2013>.
- JANZEN, Randall, 2008, “From Less War to More Peace: Guatemala’s Journey since 1996”, *Peace Research*, vol. 40, number 1, pp. 55-75.
- JONES, Adam, 2018, “Genocide and Mass Killing”, in *Security Studies: An Introduction*, Paul D. Williams (ed.), Routledge, London & New York, pp. 185-199.
- JÖTTEN, Sara, 2012, *Enforced disappearances und EMRK*, Duncker & Humblot, Berlin.
- McCONNELL, Deirdre, 2008, “The Tamil people’s right to self-determination”, *Cambridge Review of International Affairs*, vol. 21, number 1, pp. 59-76.
- KADEN, Helma and NESTLER, Ludwig, 1993, “Erlass Hitlers über die Verfolgung von Straftaten gegen das Reich, 7 December 1941”, *Dokumente des Verbrechens: Aus den Akten des Dritten Reiches*, vol. I, pp. 162-163.

- KEARNEY, Robert N., 1988, "Territorial Elements of Tamil Separatism in Sri Lanka", *Pacific Affairs*, vol. 60, number 4, pp. 561-577.
- KELLER, Helen and HERI, Corina, 2014, "Enforced Disappearances and the European Court of Human Rights. A 'Wall of Silence', Fact-Finding Difficulties and States as 'Subversive Objectors'", *Journal of International Criminal Justice*, vol. 12, number 4, pp. 735-750.
- KOVRAS, Iosif. and LOIZIDES, Neophytos, 2011, "Delaying truth recovery for missing persons", *Nations and Nationalism*, vol. 17, number 3, pp. 520-539.
- KOVRAS, Iosif, 2017, *Grassroots Activism and the Evolution of Transitional Justice: Families of the Disappeared*, Cambridge University Press, Cambridge.
- MACKERRAS, C. 2015. Xinjiang in China's foreign relations: Part of a new Silk Road or Central Asian zone of conflict?. *East Asia*. Vol. 32, number 1, pp. 25-42.
- MALINOWSKI, Tom, 2008, Restoring Moral Authority: Ending Torture, Secret Detention, and the Prison at Guantanamo Bay", *The ANNALS, in American Academy of Political and Social Science*, vol. 618, number 1, pp. 148-159.
- MOODLEY, Vadi, Gahima, Alphonse, and MUNIEN, Suveshnee, 2010, "Environmental causes and impacts of the genocide in Rwanda: Case studies of the towns of Butare and Cyangugu", *African Journal on Conflict Resolution*, vol. 10, number 2, pp. 103-119.
- NAIMARCK, Norman M., 2017, *Genocide. a world history*, Oxford University Press, Oxford.
- NATIONAL COMMISSION ON THE DISAPPEARANCE OF PERSONS, (1984), *Nunca Mas (Never Again)*, Part I: *The Repression*, in http://www.desaparecidos.org/nunca-mas/web/english/library/nevagain/nevagain_169.html (20.05.2017).
- NOWAK, Manfred, 2002, "Report submitted by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearances, pursuant to paragraph 11 of Commission", resolution 2001/46, E/CN.4/2002/71.
- OFFICE OF THE HIGH COMMISSIONER OF HUMAN RIGHTS (OHCHR), 2013, '*Without a trace: enforced disappearances in Syria*', available at <https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/ThematicPaperEDInSyria.pdf>.
- OHCHR, 2014, "Report on the human rights situation in Ukraine" available at http://www.ohchr.org/Documents/Countries/UA/OHCHR_sixth_report_on_Ukraine.pdf.
- OHCHR (2017), *Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)*, in https://www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_EN.pdf.

- OSIEL, Mark J., 2001, "Constructing Subversion in Argentina's Dirty War", *Representations*, vol. 75, number 1, pp. 119-158.
- NAVLAKHA, Gautam, 1999, "Internal War and Civil Rights: Disappearances in Jammu and Kashmir", *Economic and Political Weekly*, vol. 34, number 24, pp. 1491-1492.
- PFaffenberger, Bryan, 1987, "Sri Lanka in 1986: A Nation at the Crossroads", *Asian Survey*, vol. 27, number 2, pp. 155- 162.
- PINZÓN GONZÁLEZ, Monica Esmeralda, 2016, "Psychosocial perspectives on the enforced disappearance of indigenous peoples in Guatemala", *In Missing Persons; Multidisciplinary Perspectives on the Disappeared*, Derek Congram (coord.), Canadian Scholars' Press, Toronto, pp. 102-118.
- PRO-BÚSQUEDA, Asociación Pro-Búsqueda, webpage, in <http://www.probusqueda.org.sv/>
- PUNYASENA, Wasana, 2003, 'The Façade of Accountability: Disappearances in Sri Lanka', *Boston College Third World Law Journal*, vol. 23, number 1, pp. 115-158.
- RASZELENBERG, Patrick, 1999, "The Khmers Rouges and the Final Solution", *History and Memory*, vol. 11, number 2, pp. 62-93.
- RAYMOND, Christopher and Arce, Moises, 2011, "The politicization of indigenous identities in Peru", *Party Politics*, vol. 19, number 4, pp. 555-576.
- REUTERS, (2015), *China says Panchen Lama 'living a normal life' 20 years after disappearance*, the Guardian, in <https://www.theguardian.com/world/2015/sep/06/china-says-panchen-lama-living-a-normal-life-20-years-after-disappearance>
- ROBBEN, Antonius C.G.M, 2005, "Anthropology at War? What Argentina's Dirty War Can Teach Us", *Anthropology News*, vol. 46, number 6, p. 5.
- ROBINS, Simon, 2011, "Towards Victim-Centred Transitional Justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal", *The International Journal of Transitional Justice*, vol. 5, pp. 75-98.
- ROBINS, Simon, 2014, 'Constructing Meaning from Disappearance: Local Memorialisation of the Missing in Nepal', *International Journal of Conflict and Violence*, vol. 8, number 1, p. 104-118.
- ROBINSON, Geoffrey, 2001, "People's War: Militias in East Timor and Indonesia", *South East Asian Research*, vol. 9, number 3, pp. 271-318.
- RUMMEL, Rudolph Joseph, 1995, "Democracy, Power, Genocide, and Mass Murder", *The Journal of Conflict Resolution*, vol. 39, number 1, pp. 3-26.
- SARKIN, Jeremy (2011), "An interview with Jeremy Sarkin, Chair-Rapporteur of the United Nations Working Group on Enforced and Involuntary Disappearances, on the study on global practices in relation to secret detention", *Essex Human Rights Review*, vol. 8 number 1, pp. 57-67.

- SARKIN, Jeremy, 2012, "Why the Prohibition of Enforced Disappearance Has Attained Jus Cogens Status in International Law", *Nordic Journal of International Law*, vol. 81, number 4, pp. 537-584.
- SARKIN, Jeremy, 2013, "Putting in Place Processes and Mechanisms to Prevent and Eradicate Enforced Disappearances Around the World", *South African Yearbook of International Law*, vol. 38, number 1, pp. 20-48.
- SARKIN, Jeremy *et al*, 2014, "Bosnia and Herzegovina, Missing Persons From the Armed Conflicts of the 1990s: A Stocktaking Report", *International Commission on Missing Persons (ICMP)*, available at https://www.icmp.int/wp-content/uploads/2014/12/StocktakingReport_ENG_web.pdf.
- SARKIN, Jeremy, 2015a, "The Need to Deal with All Missing Persons including Those Missing as a Result of Armed Conflict, Disaster, Migration, Human Trafficking and Human Rights Violations (including Enforced Disappearances) in International and Domestic Law and Processes", *Inter-American and European Human Rights Journal*, vol. 2015, number 1, pp. 112-142.
- SARKIN, Jeremy, 2015b, "Dealing With Enforced Disappearances in South Africa (Focusing on the Nokuthula Simelane case) and Around the World: The Need to Ensure Progress on the Rights to Truth, Justice and Reparations", *Speculum Juris*, volume 29, number 1, pp. 21-48.
- SARKIN, Jeremy, 2017, "How Developments in the Science and Technology of Searching, Recovering and Identifying the Missing/Disappeared Are Positively Affecting the Rights of Victims Around the World", *Human Remains and Violence: An Interdisciplinary Journal*, volume 3, number 1, pp. 71-89.
- SARKIN, Jeremy, 2018a, "Respecting and Protecting the Lives of Migrants and Refugees: The Need for a Human Rights Approach to Save Lives and Find Missing Persons", *International Journal of Human Rights*, volume 22, number 2, pp. 207-236.
- SARKIN, Jeremy, 2018b, "Refocusing Transitional Justice to Focus Not Only on the Past, But Also to Concentrate on Ongoing Conflicts and Enduring Human Rights Crises", *Journal of International Humanitarian Legal Studies*, volume 7, number 2, pp. 294-329.
- SASSOLI, Marco and TOUGAS, Marie-Louise, 2002, "The ICRC and the missing", *International Review of the Red Cross*, vol. 84, number 848, pp. 733-736.
- SILVA, Romesh, and BALL, Patrick, 2006, "The Profile of Human Rights Violations in Timor-Leste, 1974-1999", *Benetech Human Rights Data Analysis Group*, available at <http://www.hrdag.org/timor>.
- SINCLAIR-WEBB, Emma, 2012, "Time for Justice. Ending Impunity for Killings and Disappearances in 1990s Turkey", *Human Rights Watch*, available at <https://www.hrw.org/report/2012/09/03/time-justice/ending-impunity-killings-and-disappearances-1990s-turkey>.

- SPANISH NATIONAL COURT, No. 5, 18 Nov. 2008, (Procedimiento Ordinario [Ordinary Proceedings] 53/2008 E).
- STANTON, Gregory, The 8 Stages of Genocide <http://www.genocidewatch.org/images/8StagesBriefingpaper.pdf>.
- STERN, Steve Jefferey, 2004, *Remembering Pinochet's Chile*, Duke University Press, Durham, N.C.
- SVETICIC, Jerneja, San Too, Lay, and De Leo, Diego, 2012, "Suicides by persons reported as missing prior to death: a retrospective cohort study", *BMJ Open*, vol. 2, number 2, pp. 1-7.
- UN COMMISSION ON HUMAN RIGHTS, 1993, "Report on the Visit to former Yugoslavia by a Member of the Working Group on Enforced or Involuntary Disappearances at the Request of the Special Rapporteur on the Situation of Human Rights in the former Yugoslavia (4–13 August 1993)", UN Doc. E/CN.4/1994/26/Add.1.
- UN COMMISSION ON HUMAN RIGHTS, 2005, "Report of the Intersessional Open-ended Working Group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance", E/CN.4/2005/66.
- UN GENERAL ASSEMBLY, 1977, "Resolution 32/118", ARES/31/2/A/B.
- UNITED NATIONS HUMAN RIGHTS COUNCIL, 2007, "Report of the Working Group on Enforced or Involuntary Disappearances: mission to El Salvador, A/HRC/7/2/Add.2.
- UN HUMAN RIGHTS COUNCIL, 2014, "Report of the Special Rapporteur on Indigenous Rights on His Mission to Canada", A/HRC/27/52/Add.2.
- UN HUMAN RIGHTS COUNCIL, 2015, "Report of the Working Group on Enforced or Involuntary Disappearances", A/HRC/30/38/Add.5, *United Nations General Assembly*.
- UN HUMAN RIGHTS COUNCIL, 2016, "Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey", A/HRC/33/51/Add.1.
- UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER OF HUMAN RIGHTS (2012), *Enforced Disappearances: progress and challenges in South America*, United Nations Human Rights, News and Events, in <http://www.ohchr.org/EN/NewsEvents/Pages/EnforcedDisappearancesprogressandchallengesinSouthAmerica.aspx> (19.05.2017).
- UNREPRESENTED NATIONS AND PEOPLES ORGANIZATION, (2014), "Enforced Disappearances – When Secrecy Allows Atrocity", available at <http://unpo.org/downloads/1646.pdf>.
- VERMEULEN, Marthe Lot, 2012, *Enforced Disappearance, Determining State Responsibility under the International Convention for the Protection of All Persons from Enforced Disappearance*, Intersentia, Utrecht.

- VERWIMP, Philip, 2006, "Machetes and Firearms: The Organization of Massacres in Rwanda", *Journal of Peace Research*, vol. 43, number 1, pp. 5-22.
- WANG, H, 2006, "Cleaned Slate?: Mayan Troubles in Guatemala", *Harvard International Review*, vol. 28, number 2, pp. 10-11.
- WEATHERBEE, Donald, 1985, "Indonesia: The Pancasila state", *Southeast Asian Affairs*, pp. 133-151.
- WEIDMANN, Nils B., 2011, "Violence "From Above" or "From Below"? The Role of Ethnicity in Bosnia's Civil War", *The Journal of Politics*, vol. 73, number 4, pp. 1178-1190.
- YAKINTHOU, Christalla, 2008, "The Quiet Deflation of Den Xehno? Changes in the Greek Cypriot Communal Narrative on the Missing Persons in Cyprus", 20 (1) *The Cyprus Review*, vol. 20, number 1, pp.