Ms. Mary Aileen Bacalso, President of ICAED.

Commemoration of the 10th Anniversary of the International Convention for the Protection of All Persons from Enforced Disappearance.

Ladies and gentlemen:

The 2015 report of the United Nations Working Group on Enforced or Involuntary Disappearances states that enforced disappearances are committed in 88 countries, wherein 45,563 cases are outstanding. Perpetrated by agents of States who are sworn to protect human rights, enforced disappearance has reached a global magnitude causing untold devastation on the lives of the disappeared, their families and society. “Everyday is filled with emptiness, sadness and grief,” laments a Belarusian wife of a disappeared and echoed by many others.

What is now the International Convention for the Protection of All Persons from Enforced Disappearance was first a dream of the Latin American Federation of Associations of Relatives of Disappeared Detainees during its founding Congress in San Jose, Costa Rica in 1981. With steadfast determination of families of victims worldwide, the wholehearted support of international NGOs and the members of the United Nations, on 23 September 2005, in Room XII of this building, the late French Ambassador, His Excellency Bernard Kessedjian, banged his gavel and announced the text of the International Convention for the Protection of All Persons from Enforced Disappearance as final. Dedicated to Sra. Marta Ocampo de Vasquez, of the Madres de Plaza de Mayo-Linea Fundadora, and to all the other families of the desaparecidos, our Convention is a bitter-sweet fruit of the struggle of all families of the disappeared to attain the envisioned world without desaparecidos.

Ten years after its adoption by the General Assembly, in what way has the treaty touched the families of the disappeared who are the very reasons for its existence? Let me cite a few examples.

Argentina was among the first governments that signed the Convention in Paris in the presence of former President Cristina Kirchner. Relatives of the disappeared consider the Convention as a strong instrument to denounce and sanction state terrorism and prevent recurrence. The Convention has been instrumental to the codification of the offence of enforced disappearance and deepening the call for truth and justice.
The Argentinian Parliament enacted a domestic law in November 2007 penalizing enforced disappearance. Hence, the families of the victims now have confidence to file cases before tribunals because their testimonies are now admissible in court. Since the Convention speaks from the victims’ perspective, the legal atmosphere values the word of the victims to obtain condemnation.

In one of the reports of the CED, the Committee stated that it is satisfied that Argentina has recognized the articles 31 and 32 of the Convention on individual and inter-states complaints. Moreover, Argentina has adopted legislative measures related to the Convention, such as the law on reforms in military justice (Ley 26394); the law on DNA (Ley 26548); the regime of absence due to ED (Ley 24321); and many laws on reparation.

While sense of ownership of the Convention among those who actively lobbied for its adoption is strong, not many families know the Convention. Moreover, families of the victims reflect that while many lawyers know the value of the imprescriptibility of this type of crime, judges in general say that the crime is punishable only upon effectivity of the law. The importance of imposing the imprescriptibility of the crime and the task of disseminating the Convention including the importance of States in accepting the competence of the CED without reservation, remain major challenges.

In Peru, the Convention has been an integral part of its campaign for justice. The process of campaigning for its ratification has resulted in the forging of cooperation among various social sectors, and public functionaries with organizations of families as they collectively realized that this is not solely an obligation of families of the disappeared but of the whole society. Furthermore, it has attained good cooperation with the International Coalition Against Enforced Disappearances and forged international solidarity.

However, the concrete application in judicial processes and in political decisions towards integral reparation has not yet been achieved. In the various judicial proceedings being carried out in the Criminal Chambers, relatives of the victims of the disappeared are powerless when judges say that national regulations require strong evidence that they have suffered from enforced disappearance and concretely, the Convention has not been applied. While Peru has already ratified the Convention, it still has to recognize the competence of the Committee on Enforced
Disappearances.

In countries that have not ratified the Convention, in Kashmir, India, 8,000 people have disappeared in the last 26 years.

The UN Convention for the Protection for All Persons Against Enforced or Involuntary Disappearances is an instrument India has signed. Since India has been accused of using disappearances as a tactic of war in Jammu and Kashmir, therefore there was pressure. To counter the pressure, India signed the Convention, but has refused to ratify it.

Since the signing of the Convention, enforced disappearances have decreased considerably despite the fact that Kashmir continues to be in active conflict that is unparalleled in terms of militarization.

In Pakistan, the government has been successful in legalizing enforced disappearance and secret detentions. The legislative and judicial branches of government have given a go signal to military courts in which even the civilians can be tried. Pakistan also adopted constitutional amendments and enacted the protection act that grants retroactive amnesty to the perpetrators of enforced disappearances. It has not yet signed the Convention. The biggest challenge in this regard is the fact that lobby work is done by only a handful of NGOs/CSOs with meager resources. Enforced disappearance being perpetrated by the State, protesting its commission is tantamount to a confrontation with the vast machinery of the State. Hence, only a few dare to openly fight against enforced disappearance. For similar reasons majority of the human rights activists in Pakistan distance themselves from this issue. Thus, the challenge is for the UN to allot resources for the struggle against enforced disappearance and for NGOs to work harder on the issue.

The need for ratification of the Convention by the Nepalese government - which has already set up two commissions to address the decade-long internal conflict cases, i.e., the Truth and Reconciliation Commission and the Commissions on the Investigation of Enforced Disappeared Persons - is urgent. The failure of the commissions to create a conducive environment to bring the victims and concerned stakeholders on board has significantly added to the urgency of ratifying the Convention.

Guatemala is one of the signatories to the Convention. However, there is no evidence, whatsoever, that the Congress of the Republic would
ratify the Convention. This, despite the fact that Guatemala is one of the countries where the practice has been widespread. The existence of 45,000 disappeared people proves that the commission of enforced disappearance has been unabated. With the militarization that exists in the country, it is necessary that victims receive a strong support through the ratification of the Convention.

The We Remember-Belarus, whose Government has not ratified nor signed the Convention, stated that its entry into force is a major victory. It is not only a new legal mechanism but also a source of hope, of solidarity and security for families of the disappeared that one day, a world without desaparecidos will be realized. The challenge for families and NGOs is to explain the Convention and convince states to sign and ratify it.

Laos is already a signatory to the Convention, and its spokesperson at the 2015 UPR has expressed that the Lao government is seriously considering ratification of the Convention at some future date. Laos should make good its intention and ratify the Convention soonest since it is already a signatory. It is the Chair of ASEAN in 2016. If Laos were to ratify the Convention in 2016, it would demonstrate its leadership within the ASEAN, and gain recognition from its development partners as a country that respects the international principles and standards for human rights.

My country, the Philippines, takes pride in having enacted the first and only anti-enforced disappearance law in Asia. The domestic law and the Convention are complementary and mutually reinforcing. The long-awaited signing and ratification of the Convention will also strengthen international solidarity and set a good example to other Asian States which have not yet ratified the Convention. The families of the disappeared have steadfastly lobbied for the Philippines' signing and ratification of the Convention even as they had actively participated in the drafting of the instrument in Geneva. Their representatives through the Families of Victims of Involuntary Disappearance (FIND) and the Asian Federation Against Involuntary Disappearances (AFAD) had met with two Presidents to urge them to endorse the enactment of the then-anti-enforced disappearance bill and the Convention. FIND also spearheaded the formation of the local Coalition Against Enforced Disappearance, which counts among its members not only NGOs from the human rights community, but representatives from government as well. FIND and AFAD also sought support from the Philippine Congress in their effort to convince the executive branch to sign the
Convention by having a privilege speech delivered by a member of the House of Representatives on the International Day of the Disappeared last year. As the country gears towards national elections two months from now, the families of the disappeared are faced with having to convince a new set of government officials to sign and ratify the Convention.

These are just a few examples in the countries mentioned...

Ten years after its adoption by the General Assembly, the Convention now has 51 States Parties and 95 signatories. Despite the global magnitude of the crime of enforced disappearance, international ratification and implementation of the Convention is far from being achieved.

The challenge is ours to take.