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**Contribution to the study of the Working Group on enforced or involuntary disappearances on the topic of „Standards and public policies for an effective investigation of enforced disappearances”**

Adopting a thematic report on “Standards and public policies for an effective investigation of enforced disappearances” will be highly useful both for States and victims. The general idea presented in the Interim Report is well-considered and reflective of existing international standards.

I suggest that the Working Groups consider developing further several aspects of the Report:

* The report could demonstrate how States should perform their obligations in case of transnational enforced disappearances. In particular, States should: provide support for the families of the disappeared, ensure their security, enable them access to the investigation process, and guarantee their participation in all stages of the search. These are especially problematic issues in cases where the families reside in another country.[[1]](#footnote-1) The report could mention that all support and access to which families of victims are entitled should be provided irrespective of the legal status of the disappeared person during the time of the disappearance, as to include all migrants.
* In many countries, non-State actors are allegedly perpetrating acts in many ways comparable to enforced disappearance. The Report should emphasise that investigations into such cases must be conducted in a manner similar to an investigation of a suspected case of enforced disappearance, regardless of the presence of evidence implicating the State. This has been enshrined in Article 3 of the ICPPED.
* As the Working Groups also aim to address investigations in the context of transitional justice, the report could further emphasise the importance of effective proceedings in post-conflict situations. While in such situations it may be difficult to perform an investigation, States should always take seriously their obligation to conduct an effective investigation. No transitional situation should be used to justify the inaction of the State.[[2]](#footnote-2)
* As women represent a large majority of those left behind in disappearance cases, it frequently falls upon women to advocate for state action to investigate their loved ones’ enforced disappearance.[[3]](#footnote-3) The Report could mention ways in which State authorities can empower women and enable their participation in search efforts. Examples might include organising sensitivity training for public servants to rectify decreased female access to public services as compared to men; forming psychosocial and family support programs to empower spouses of disappeared persons and prevent their further victimisation; and/or arranging language support for women unable to read the official language(s) of search proceedings.

1. For pracitical examples see G. Citroni, *The first attempts in Mexico and Central America to address the phenomenon of missing and disappeared migrants*, 2018 International Review of the Red Cross 99 (2). [↑](#footnote-ref-1)
2. See for example: HRAP opinion of 1 February 2013 in case 52/09, *B.A. v. UNMIK*, par. 94. By contrast, with regard to Bosnia and Herzegovina, the European Court of Human Rights found, that only after 2005 it was possible to carry out an effective investigation into enforced disappearances, see ECtHR Judgment of 15 January 2011, App. no. 4704/04, *Palić v. Bosnia and Hercegovina*, par. 70–71. [↑](#footnote-ref-2)
3. P. P. Dewhirst, A. Kapur, *The Disappeared and Invisible: Revealing the Enduring Impact of Enforced Disappearances on Women*, International Center for Transitional Justice, 2015, p. 24. [↑](#footnote-ref-3)