



MISSION STATEMENT

THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) IS AN IMPARTIAL, NEUTRAL AND INDEPENDENT ORGANIZATION WHOSE EXCLUSIVELY HUMANITARIAN MISSION IS TO PROTECT THE LIVES AND DIGNITY OF VICTIMS OF WAR AND INTERNAL VIOLENCE AND TO PROVIDE THEM WITH ASSISTANCE.

IT DIRECTS AND COORDINATES THE INTERNATIONAL RELIEF ACTIVITIES CONDUCTED BY THE MOVEMENT IN SITUATIONS OF CONFLICT. IT ALSO ENDEAVOURS TO PREVENT SUFFERING BY PROMOTING AND STRENGTHENING HUMANITARIAN LAW AND UNIVERSAL HUMANITARIAN PRINCIPLES.

ESTABLISHED IN 1863, THE ICRC IS AT THE ORIGIN OF THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT.

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THE MISSING
the right to know





The Missing and their Families

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**The Missing:
Action to resolve the problem of people unaccounted for as a result of armed conflict
or internal violence and to assist their families**

Mission statement

The aim is to heighten awareness among governments, the military, international and national organizations – including the worldwide Red Cross and Red Crescent network – and the general public about the tragedy of people unaccounted for as a result of armed conflict or internal violence and about the anguish of their families

by creating and making available tools for action and communication

in order to ensure accountability on the part of the authorities responsible for resolving the problem of missing people, to better assist the families and to prevent further disappearances.

Table of Content

ICRC Report: The Missing and their Families - Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Non-Governmental Experts (19-21 February 2003) – Excerpt: Introduction and Executive Summary	3
International Conference of Governmental and Non-Governmental Experts (Geneva, 19-21 February 2003) - Outcome	13
Working Group on the <i>Observations and Recommendations</i> : Report by the Chairman to the Plenary, Mr Nicolas Michel, Director, Directorate of Public International Law, Federal Department of Foreign Affairs, Switzerland	13
Observations and Recommendations - Adopted by Consensus on 21 February 2003	15
28th International Conference of the Red Cross and Red Crescent (Geneva, 2-6 December 2003)	19
Resolution 1: Adoption of the Declaration and Agenda for Humanitarian Action (6 December 2003)	19
Agenda for Humanitarian Action (6 December 2003) - Excerpt	21

The Missing and their Families
Documents of reference

**ICRC Report: The Missing and their Families - Summary of the
Conclusions arising from Events held prior to the International
Conference of Governmental and Non-Governmental Experts (19-21
February 2003) – Excerpt: Introduction and Executive Summary**

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Table of contents

I.	Introduction	4
II.	Executive summary.....	6
	1. General principles	6
	2. Information management.....	7
	3. Prevention	7
	4. Processing files on missing persons	8
	5. Mechanisms for clarifying the fate of missing persons	8
	6. Management of information on the dead and of human remains	9
	7. Family support.....	11
	8. Families and death	12

I. Introduction

Uncertainty about the fate of their relatives is a harsh reality for countless families in armed conflict¹ and internal violence². All around the world, parents, siblings, spouses and children are desperately trying to find lost relatives. Families and communities, not knowing whether their members are alive or dead, are unable to obtain closure on the violent events that have disrupted their lives. Their anxiety remains with them for years after the fighting has subsided and peace returned. They are unable to move on to personal or community rehabilitation and reconciliation. Future generations carry with them the resentment caused by the humiliation and injustice suffered by their relatives and neighbours. Such festering wounds can rot the fabric of society and undermine relations between persons, groups and nations for decades after the actual events.

The relevant State authorities, armed groups and leaders must therefore take action, backed by national and international humanitarian and human rights organizations, to prevent people from going missing and to deal with the consequences when they do. For this, they can choose from a broad spectrum of measures involving persuasion, substitution, denunciation and judicial action. Whenever possible, constructive dialogue must be fostered between all parties - including the families of missing persons and their communities. This is the only means of reducing the number of missing persons and of identifying appropriate measures to be taken in their favour and that of their relatives.

The primary need inevitably cited by the families of missing persons is the right to know what happened to their relatives.

Furthermore, experience shows that the missing person was often the family breadwinner and bore responsibility for administering the family's affairs in the public realm. Hence, while every effort must be made to ascertain the fate of people who are unaccounted for, their relatives must at the same time be provided with the means of living without shame.

The families and communities attach equal importance to the perpetrators of crimes being held accountable for their acts.

At the very least, when all else fails and it proves impossible to account for those who have disappeared in the course of armed conflict or internal violence, for the sake of the families and communities the loss of human lives must be acknowledged and the next-of-kin allowed to honour the memory of the missing in a dignified manner.

In accordance with the mandate conferred on it by the community of States, the ICRC's objectives in armed conflict and internal violence include to ensure that people are protected against threats to their lives, physical integrity and dignity, to prevent disappearances, to restore family ties, and to ascertain the fate of people whose families are without news of them. In most places, however, the ICRC is prevented from fulfilling these objectives by a lack of will on the part of the authorities or the parties concerned. Other governmental and non-governmental organizations working to prevent disappearances, to promote international humanitarian law and international human rights law and to trace missing persons face similar obstacles.

In cooperation with government representatives, other components of the International Red Cross and Red Crescent Movement, international, regional and national governmental and non-governmental organizations, representatives of families of missing persons and a variety of experts, the ICRC therefore launched a process aimed at addressing the plight of people who are unaccounted for as a result of armed conflict or internal violence and of their relatives.

1 International and/or non-international armed conflict(s) - As defined in the Geneva Conventions of 12 August 1949 and their two Additional Protocols of 1977

2 Internal disturbances (internal strife) and situations requiring a specifically neutral and independent institution and intermediary - In conformity with the *Statutes of the International Red Cross and Red Crescent Movement*, article 5(2)(d) and 5(3), adopted by the Twenty-fifth International Conference of the Red Cross at Geneva in October 1986 and amended by the Twenty-sixth International Conference of the Red Cross and Red Crescent at Geneva in December 1995

The Missing and their Families

Documents of reference

The ICRC's objectives in launching this process in cooperation with all those involved in dealing with the issue are to:

- (a) review all methods of preventing persons from becoming unaccounted for in armed conflict or internal violence and of responding to the needs of families that have lost contact with their relatives;
- (b) agree on common and complementary recommendations and operational practices with all those working to prevent persons from becoming unaccounted for and to respond appropriately when people are missing as a result of armed conflict or internal violence;
- (c) heighten concern about the issue among State authorities, the United Nations and non-governmental organizations.

The ICRC decided to carry out this process in two initial stages.

The first, which took place between February and mid-December 2002, included three studies entrusted to research institutes, two electronic workshops and six workshops for governmental and non-governmental experts.

These events covered the traditional practices and activities of protection work and restoring family links, the management of human remains, support for the families of missing persons, the collection and management of personal data, and mechanisms for handling cases of missing persons. For each topic, needs and how to meet them were pinpointed, constraints identified, and recommendations and best practices produced. Approximately 120 experts contributed in one way or another to these events. A report is available on each one³.

For the second stage of the process, the ICRC has convened governmental and non-governmental experts to an international conference that will take place from 19 to 21 February 2003 in Geneva.

The objective of this report is to summarize for the conference the results of the events that took place during the first stage of the process. The report was drawn up under the ICRC's responsibility in two phases, the experts who took part in the first stage of the process having been invited to comment on an initial draft version in October and November 2002. Except for chapter XII, the present report does not necessarily represent the ICRC position.

The ICRC wishes to express its deep appreciation to all those who took part in the process. This report could not have been drafted without the wealth of experience they contributed and without their commitment.

The ICRC hopes that this report and the conference outcome will be of direct use to:

- a) all the governmental, humanitarian and human rights players engaged in field work in connection with armed conflict or internal violence;
- b) the governments involved in developing international law and preventing or resolving conflicts.

The ICRC will do all in its power to ensure that the outcome of the conference is put into practice for the benefit of missing persons and their families.

³ List of reports:

"The legal protection of personal data & human remains, Electronic Workshop, 02.04.2002 - 06.05.2002: Final report and outcome" (ICRC/TheMissing/07.2002/EN/1)

"Member of armed forces and armed groups: identification, family news, killed in action, prevention, Workshop, 06.05.2002 - 07.05.2002, Ecogia ICRC Training Center - Geneva - Switzerland: Final report and outcome" (ICRC/TheMissing/08.2002/EN/2)

"Human remains & forensic sciences, Electronic Workshop, 02.2002 - 03.2002; Human remains: Law, politics & ethics, 23.05.2002 - 24.05.2002 and Human remains: management of remains and of information on the dead, 10.07.2002 - 12.07.2002, Workshops, Ecogia ICRC Training Center - Geneva - Switzerland: Final report and outcome" (ICRC/TheMissing/10.2002/EN/3)

"Support to families of people unaccounted for, Workshop, 10.06.2002 - 11.06.2002, Ecogia ICRC Training Center - Geneva - Switzerland: Final report and outcome" (ICRC/TheMissing/08.2002/EN/4)

"Means to prevent disappearances & to process missing cases, Workshop, 24.07.2002 - 26.07.2002, Ecogia ICRC Training Center - Geneva - Switzerland: Final report and outcome" (ICRC/TheMissing/10.2002/EN/5)

"Mechanisms to solve issues on people unaccounted for, Workshop, 19.09.2002 - 20.09.2002, Ecogia ICRC Training Center - Geneva - Switzerland: Final report and outcome" (ICRC/TheMissing/12.2002/EN/6)

"Mourning process & commemorations, Study - Report and recommendations, Drawn up under the direction of Yvan Droz, Doctor of Ethnology, associate professor at the Geneva Graduate Institute of Development Studies (IUED), In cooperation with Sylvain Froidevaux, Doctor in Social Sciences, commissioned by the IUED" (ICRC/TheMissing/10.2002/EN/7)

"Overcoming the tensions between family needs and judicial procedures - Study - Report and recommendations, by Ms Vasuki Nesiah, Senior Associate, International Center for Transitional Justice" (ICRC/TheMissing/09.2002/EN/8)

"Study on existing mechanisms to clarify the fate of people unaccounted for - Report and recommendations, by Jean-François Rioux, Professor of conflict studies at Saint-Paul University, Ottawa, Canada and Marco Sassòli, Professor of public international law at the Université du Québec à Montréal, Canada; with the assistance of Mr. Mountaga Diagne and Ms. Marianne Reux, research assistants at the Université du Québec à Montréal" (ICRC/TheMissing/01.2003/EN/9)

II. Executive summary

1. General principles

- 1.1 *Missing persons or persons unaccounted for* are those whose families are without news of them and/or are reported missing, on the basis of reliable information, owing to armed conflict (international or non-international) or internal violence (internal disturbances (internal strife) and situations requiring a specifically neutral and independent institution and intermediary). The term *family* and *relatives* must be understood in their broadest sense, including family members and close friends, and taking into account the cultural environment.
- 1.2 The type of situation, whether armed conflict or internal violence, should not play a decisive role in determining how to address the issue of missing persons. The determining factor is the cause of the disappearances, which can be due to either disorganization and acts of war or lack of good will on the part of State authorities or armed groups leading to crimes and violations.
- 1.3 The governments and international, regional and local governmental and non-governmental humanitarian and human rights organizations as well as the ICRC should take action to promote and ensure the ratification of or adherence to international humanitarian law and human rights treaties, their implementation in domestic law, respect for their provisions, and adequate instruction in the principles they contain for all State agents and at educational institutions.
- 1.4 War crimes and other crimes under international law must be systematically prosecuted by national or international courts.
- 1.5 The families of missing persons must be recognized as victims of armed conflict or internal violence. Their right to information, accountability and acknowledgment must be upheld. Their most fundamental need is nevertheless for information on the fate of their relatives.
- 1.6 The individual right of family members to know the fate of missing relatives, their whereabouts or, if dead, the circumstances and cause of their deaths, should be explicitly recognized in times of armed conflict and internal violence. The violation of the right to inform relatives of one's whereabouts or of the right of family members to receive information on the fate of relatives missing because of armed conflict or internal violence should be considered a violation of the right to family life. The systematic and/or persistent violation of these rights should be considered cruel or inhuman treatment.
- 1.7 Directly concerned State authorities and the community of States bear primary responsibility for preventing people from becoming unaccounted for and for ascertaining the fate of missing persons. Armed groups also bear a responsibility in this regard. The issue of missing persons, including the specific needs of their families, must be deliberated at donor meetings.
- 1.8 Humanitarian and human rights organizations promote awareness, provide support and act as facilitators. The strategy of these players in a given situation will differ according to the degree of willingness of the State authorities and armed groups and to their resource capacity to implement measures to prevent people from going missing and to ascertain the fate of those who are. It will also depend on each player's mandate, objectives and working methods. Those engaged in a given situation are in all cases accountable to the victims, namely the missing persons and their families; this implies that they must behave ethically.
- 1.9 Any action or activity undertaken to prevent people from becoming unaccounted for and to ascertain the fate of those who are missing must take into account the sensitivities of and be adapted to the cultural and social environment of each context.
- 1.10 Those working with the families of missing persons have a responsibility to train and support their staff.
 - A. Any fieldwork should be preceded by briefings by an expert with local experience, such as an anthropologist, and include information about the society and the cultural and religious aspects of mourning, grief and funeral customs.
 - B. Specific training should be given by professionals to all staff on the psychological reactions trauma victims may suffer, on the risk of secondary trauma for those working with trauma victims and on the means by which staff can protect themselves against secondary traumatization and burnout.
 - C. Teams working with the families of missing persons should be regularly debriefed. All staff should be continuously supervised in the field and provided with ongoing support to help them deal with particular problems arising from their work and to help prevent secondary traumatization and burnout.
 - D. Targeted specific training and support should be provided for staff collecting *ante mortem* data and/or samples for DNA analysis and transmitting information about death to the families.

The Missing and their Families

Documents of reference

2. Information management

- 2.1 The collection of accurate information (establishing the facts) is the first step to be taken when addressing any problem; it should never, though, endanger the person collecting the information or the source of the information. Those involved must coordinate their activities and should share information so as to heighten the effectiveness of the action they take to prevent people from becoming unaccounted for and to ascertain the fate of missing persons. This requires the promotion and implementation of standards on the collection and management of information.
- 2.2 Centralization of personal data is essential to increase the possibility of finding a match between tracing requests and available / known information (on displaced persons, refugees, persons deprived of their liberty, dead persons, etc.). The aim over time must therefore be to centralize personal data.
 - A. An Information Bureau must be established and operational at the latest by the time the armed conflict breaks out.
 - B. Among humanitarian and human rights organizations, the ICRC, when present, is recognized to be the organization best able to centralize personal data collected for humanitarian purposes. However, owing to its mandate and the nature of its modes of action, the ICRC will not provide information for use in criminal investigations.
- 2.3 Information (data and samples) is a powerful tool when used correctly and dangerous when misused. All those involved must therefore work within a framework established in compliance with the legal rules governing the protection of personal data and human remains, including genetic information.

3. Prevention

- 3.1 To establish a context in which people are less likely to become unaccounted for, a number of general practical measures must be taken. These include:
 - A. establishing control through a strict chain of command within armed and security forces and armed groups in order to ensure that effective supervision is possible;
 - B. ensuring that personal identity documents are made easily available to all, that people at risk are registered and that deaths are duly registered;
 - C. issuing official regulations on arrest, capture, detention, imprisonment or captivity that meet internationally recognized standards.
- 3.2 Armed groups should be made aware of their obligations under international humanitarian law, including their responsibility regarding violations of the treaty-based and customary provisions of the law.
- 3.3 Armed and security forces / armed groups and military forces serving in peace-keeping and peace-enforcement units must issue and implement, with the required training, directives and instructions based on best-practice guidelines for:
 - A. the identification of all members of armed forces / armed groups by means of identity discs as a minimum;
 - B. communication between the members of armed forces / armed groups and their relatives, including mail service at least once a month;
 - C. ensuring the security and physical integrity of all persons not or no longer participating directly in the hostilities;
 - D. ensuring the security and physical integrity of all persons deprived of their liberty;
 - E. the proper management of human remains.
- 3.4 The identification of members of armed forces / armed groups is a key means of preventing persons from becoming missing as a result of armed conflict. As an absolute minimum, therefore, all members of armed forces and armed groups should be required to wear identity discs. In some cases, troops do not use proper means of identification for lack of resources, knowledge, or technical and administrative skills. In such cases, the members of organizations such as the AU/OAU, ASEAN, NATO, the OAS, the OIC and the OSCE, or peace, democratization and development organizations, or the ICRC may be able to provide help.
- 3.5 The implementation of the right of families to exchange news is an essential means of preventing people from becoming unaccounted for. The violation of the right to exchange news with relatives should be considered a violation of the right to family life. The systematic and/or persistent violation of this right should be considered cruel or inhuman treatment.
- 3.6 The Red Cross / Red Crescent family news network is essential and must be supported by all those involved. Other organizations and their means must be seen as being complementary to the network, not as substitutes for it.

The Missing and their Families

Documents of reference

- 3.7 Humanitarian organizations must have guaranteed access to the civilian population in all circumstances.
- 3.8 The ICRC or another mechanism must be authorized, in all circumstances and on a regular basis, to visit persons deprived of their liberty for reasons related to armed conflict or internal violence.
- 3.9 Persons who die as a result of armed conflict or internal violence are often listed among the missing because their deaths are not recorded, whether deliberately or not. Providing information on those who die in such situations is thus one way of directly reducing the number of missing persons and ascertaining their fate, thereby alleviating the families' anxiety and putting an end to their uncertainty.

4. Processing files on missing persons

- 4.1 It is essential to compile comprehensive files on persons being sought by their families. All those involved must recognize the importance of distinguishing between humanitarian and political issues when processing such files.
- 4.2 Those compiling files on missing persons must share and make known their methods of doing so, their objective(s) and their processing procedures.
- 4.3 All those compiling files must do so on an impartial basis. They must differentiate between facts and presumptions, all of which must be based on sound local knowledge and reflect the reliability of the source of information. The contents of the files must be standardized so that information can be shared and centralized.
- 4.4 The strategy adopted for processing files depends on the situation. During armed conflict and internal violence, the ICRC can play a major role as a neutral, impartial and independent player. In post-conflict / post-violence situations, processing should be enhanced within a framework that takes account in particular of the means of obtaining information on the fate of missing persons, including from perpetrators. Allowance must also be made for all family needs, the role of the judiciary, the need for reconciliation and the need for a mediation process to facilitate access to information.

5. Mechanisms for clarifying the fate of missing persons

- 5.1 The State authorities, armed groups and civil society should be made aware that the issue of missing persons must be resolved for the purposes of prevention and so that it does not become a legacy of the armed conflict or situation of internal violence. This calls for the mobilization, for example, of public opinion, the media and leaders, who should be made aware of the problem and of the need for mechanisms, including preventive mechanisms.
- 5.2 The State authorities and armed groups bear primary responsibility for providing information on missing persons. They should be obliged to investigate cases. Criminal procedures should include penalties for non-compliance with court orders pertaining to the disclosure of evidence. The knowing and wilful destruction of evidence should be subject to criminal sanction. International pressure should be used to obtain information from the State authorities and armed groups. The State authorities and armed groups should be held accountable if they impede access to or give inaccurate information.
- 5.3 The issue of missing persons should systematically figure on the international agenda. Peace agreements should systematically include specific mechanisms for clarifying the fate of missing persons; the community of States, international, regional and national governmental and non-governmental organizations and the ICRC should lobby actively to that end. The families constitute a pressure group working to keep the issue on the political agenda, and as such should be given support.
- 5.4 All families need information on the fate of missing relatives; this need is universal. Their needs for accountability and acknowledgement may differ, however, with the context and situation. The mechanisms established should therefore not neglect individual cases. The needs for accountability and acknowledgment should be dealt with in parallel with the need for information; however they may not necessarily be met by formal judicial procedures.
- 5.5 Most situations require the existence of multiple mechanisms (humanitarian, governmental, judicial and non-judicial), with bridges between them, to cover the range of needs experienced by families and communities.

The Missing and their Families

Documents of reference

- 5.6 Mechanisms should not be externally imposed; they have to be independent and impartial in outlook and working methods.
- A. The involvement of international organizations gives them credibility.
 - B. All mechanisms should deal not only with the State authorities but also with armed groups. Human rights mechanisms should be extended to apply to armed groups.
 - C. Mechanisms bringing the (former) warring parties together are useful in the search for missing persons if a third party (such as the ICRC) is actively involved and above all if the parties concerned have a clear political will to find the missing. In the absence of that political will or when the mechanism is used as a smokescreen, the third party should be able to withdraw from the process. It should be ready, however, to help reactivate the mechanism if the parties show tangible signs of renewed political will.
 - D. Information that has been uncovered during a criminal investigation and that can shed light on the fate of a missing person should be provided to the family, in a manner and as soon as compatible with judicial guarantees and effective prosecution.
 - E. Measures such as laws of amnesty, truth commissions or legislation introducing less severe punishment or granting physical protection to perpetrators can prove helpful, provided they make a substantial contribution to establishing the truth. However, amnesties should only be granted to individuals under certain conditions and in accordance with international law.
 - F. Information from third persons might also be helpful (with witness protection programmes).
 - G. Where the judicial system may not be able to handle all cases of missing persons, the implementation of non-judicial mechanisms such as truth commissions should be considered.
 - H. The families attach great importance to the publication of the names and pictures of missing persons, which also constitutes a means of exerting pressure at the political level.
 - I. The mechanisms should also cover State reparations and support for victims / families.
- 5.7 Mechanisms should be complementary; they should coordinate their activities and exchange information on missing persons in compliance with the rules governing the protection of personal data and with their respective mandates. At country level, a central database on all missing persons should be managed by a single agency working with information collected according to an agreed standard.

6. Management of information on the dead and of human remains

- 6.1 The State authorities and armed groups bear primary responsibility for the proper handling of the human remains and for information on the dead.
- 6.2 Despoliation and desecration of the dead should constitute crimes under international law when committed during non-international armed conflicts (as is the case in international armed conflicts). Intentionally mutilating the remains before their repatriation as part of a widespread and systematic policy should be considered an aggravated form of the crime. Intentionally obstructing, interfering with, or impeding the process of identification of human remains for the purpose of preventing said identification should be punished as a criminal offence under domestic law.
- 6.3 Where the State authorities and armed groups are unable / unwilling to fulfill their obligations and the dead are not taken care of, humanitarian organizations should address the problem from the outset of the armed conflict or internal violence, with the support of the community of States.
- A. Information should be systematically collected on graves and on the dead.
 - B. Measures must be taken:
 - a. to collect the dead and to exhume unidentified remains when required and as soon as possible;
 - b. to collect as much information as possible on remains and on the events leading to death;
 - c. to preserve all remains not returned to the families;
 - d. to inform the families when a relative has died, to provide them with death certificates / attestations, and to return any personal effects and, whenever possible, the remains.
- 6.4 All those involved must work in accordance with best practices while respecting the legal and ethical rules pertaining to the management of personal information and human remains.
- 6.5 In numerous armed conflicts and situations of internal violence, neither death certificates nor official notifications / confirmations of death are provided, either because the information is simply not available or has been withheld. It is therefore essential to collect information about the dead from direct witnesses. As the witness's account may be the only information on a death that can be transmitted to the deceased's family, the State authorities should issue death certificates on the basis of any such accounts that meet agreed conditions.
- 6.6 Whenever possible, any procedure involving human remains should be carried out by forensic specialists.

The Missing and their Families

Documents of reference

- 6.7 Because forensic specialists are not always available in the situations under consideration, non-specialists must often be involved, the aim being to maximize the chances of systematic evaluation of the event and identification, even at a later date.
- 6.8 Armed and security forces, armed groups, military forces serving in peace-keeping and peace-enforcement units, health facilities and humanitarian organizations should adopt best practices to streamline procedures for collecting information on the dead and handling remains. They should train their staff accordingly, with the support of forensic specialists.
- 6.9 In armed conflict and internal violence, forensic specialists should be involved in the process of collecting, exhuming and/or identifying human remains as soon as the need arises.
- 6.10 The involvement of forensic specialists requires an adequate working framework and agreed protocols. Identification for the purposes of informing the family and returning remains is just as important as providing evidence for criminal investigations and constitutes due recognition of the rights of the families. The work of forensic specialists is necessary to ensure both objectives.
- 6.11 Forensic specialists working in contexts involving missing persons must demonstrate a level of professionalism that goes beyond simply assuring standards of practice.
- A. They must be qualified and competent to work in the situations under consideration.
 - B. They have an ethical obligation actively to advocate an identification process.
 - C. When examining remains, they have an ethical duty to observe and record all information potentially relevant to identification.
 - D. They must not follow procedures that will result in the destruction of material that may be used at a later date.
 - E. They must consider the families' rights and needs before, during and after exhumation.
 - F. They must give consideration to the disposal of unidentified remains in a way appropriate to the context.
 - G. They must be familiar with the pertinent provisions of international humanitarian and human rights law, and should promote the incorporation of those provisions in the basic training of forensic specialists.
 - H. They have a duty to abide by the ethics of their profession and to be aware of the threats they may face in contexts involving missing persons.
- 6.12 The State authorities bear ultimate responsibility for the management, exhumation and identification of human remains. However, in some contexts others may play this role (e.g. international tribunals, UNHCHR or non-governmental organizations) and bring forensic specialists to the area.
- 6.13 All those involved must recognize the role of forensic specialists and the need for a framework, standard guidelines and protocols relating to exhumation, autopsies and identification. This includes the understanding that exhumation and identification comprise the dual objectives of identification and establishing the cause of death; it also includes a commitment to give simultaneous consideration to the family in all matters pertaining to human remains and to ensure that everything possible is done so that the families are informed and supported. These aspects should be reflected in contracts between the forensic specialists and those employing them.
- 6.14 Forensic teams working in the contexts under consideration must be headed by medical practitioners with recognized qualifications and demonstrable skills and experience in forensic pathology.
- 6.15 The production, dissemination and updating of accepted forensic guidelines, standards and protocols, along with the training required to ensure that the work is ethically and well performed, will guarantee that an adequate forensic framework is applied in all the situations under consideration. For this purpose, an international body whose mission statement relates to forensic specialists working in such contexts is needed.
- 6.16 Support must be given to the process of defining standards for exhumation, autopsies and *post* and *ante mortem* data collection and for the development of appropriate software by the forensic working groups convened by the ICRC. In the meantime, the tools available must be adapted and protocols agreed by all those involved in a given context before any exhumation and/or identification process is started.
- 6.17 The approach to the identification of human remains must be adapted to each context and agreed by all those involved before an identification process is started. It must include decisions and protocols regarding the collection of *ante mortem* data and/or samples for DNA analysis, and autopsy and identification protocols. It must be implemented under the responsibility of the head of the forensic team.

The Missing and their Families

Documents of reference

- 6.18 DNA analysis must not preclude the use of other objective means of identification. Human remains should be identified by means of DNA typing when other investigative techniques of identification are inadequate. The decision to use DNA analysis should be based on sound scientific and practical considerations within the identification process strategy defined for a given context. Governments, international and regional governmental and non-governmental organizations and the ICRC must take care not to introduce double standards.
- 6.19 When DNA analysis is deemed necessary for identification:
- A. the techniques used must be feasible and practicable in the given context;
 - B. the techniques used must be reliable and scientifically valid;
 - C. the information technology used to analyse and match DNA samples must be reliable and valid;
 - D. the chain of custody for the collection, storage and transport of samples must be agreed by all those involved;
 - E. the analysis must be performed in certified laboratories that can ensure quality to accredited standards and the handling of human remains, samples and data in agreement with the rules governing the protection of personal data and human remains. Such laboratories must agree to be externally audited.
- 6.20 The communities and the families must be involved in any process to exhume and/or identify human remains. Their involvement should be adapted to the context, and the process must therefore include a communication strategy agreed and implemented by all those involved.
- 6.21 The same holds true for the collection from relatives of *ante mortem* data and/or samples for DNA analysis.
- 6.22 The collection of human remains and the processes of exhumation and identification should only start once a framework for doing so has been agreed by all those involved. This framework must include the relevant protocols, psychological support for the families and organization of the process of *ante mortem* data collection. As a general principle, families should only have to undergo one interview, which may nevertheless be conducted in several stages. Whenever possible, the entire process should be organized for groups of people who went missing under the same circumstances or during the same event and/or whose remains may be expected to be found in the same location, so as to facilitate planning and speed up the process of identification.

7. Family support

- 7.1 While they await clarification of their relatives' fate or notification of death, the families of missing persons face specific needs.
- 7.2 The families' specific material, financial, psychological and legal needs must be addressed by the directly concerned State authorities, who bear primary responsibility, with the support of the community of States, of international, regional and national governmental and non-governmental organizations and of the ICRC.
- 7.3 During an emergency phase it may not be possible to address more than the basic needs for food, shelter and physical safety; however, even while the armed conflict or the situation of internal violence is ongoing and as soon as circumstances allow, targeted assistance must be provided to these victims.
- 7.4 Any programme or activity addressing the families' needs should be adapted to local circumstances and aim to promote social reconstruction and reconciliation in the community. Programmes should aim to promote the families' self-sufficiency.
- 7.5 Of special concern in this respect are single heads of family and unaccompanied minors, whose physical safety must be given special attention.
- 7.6 Children whose parents are both unaccounted for need to be protected, and they must be reunited with and cared for by members of their extended family or community. They should be schooled in their own environment.
- 7.7 Programmes providing psychological support and, when necessary, psychiatric treatment for the families of missing persons should be set up with a view to helping the families adapt to their altered situation and come to terms with the events. Such programmes should be built on the local mental health, primary health care and healing systems, in order to be adapted to the cultural context and habits. Those systems must therefore be supported and reinforced.
- 7.8 The State authorities should incorporate into their domestic legislation provisions regarding the legal situation of missing persons and the rights of family members while the person is missing. Matters of concern include the civil status of spouse and children, guardianship and parental authority and the administration of the missing person's estate.

The Missing and their Families

Documents of reference

- 7.9 Family networks and associations can play an important role at several levels. They can in particular provide collective support, emphasize the role of the families as the chief activists on the issue of missing persons (and not only as victims) and exert pressure on policymakers.
- 7.10 The development of civil society must be encouraged. In particular, the representative nature, independence and self-sufficiency of family associations and other partners within civil society must be promoted and sustained.

8. Families and death

- 8.1 To show respect for the dead and for local funeral rites is to demonstrate respect for the mourning process, which is essential for peace and social order. To show disrespect for the dead and to prevent funerals and other mourning practices is to make the dead and the living incur a risk.
- 8.2 The State authorities and armed groups must show respect for the dead and for the mourning practices of all communities and individuals in all circumstances. This also applies to all others carrying out activities related to the dead (e.g. transmitting information on death, returning personal effects or human remains, exhuming or identifying human remains, burying human remains, albeit temporarily). All have a responsibility to find out about local practices and to act accordingly.
- 8.3 The cultural identity of refugees and displaced persons should be respected at all times; this includes giving refugees and displaced persons the opportunity to hold funerals and commemorative services in keeping with their culture.
- 8.4 The only prerequisite to mourning is the belief that the missing person is dead. Until adequate proof of death can be provided, relatives of missing persons cannot mourn and may experience feelings of guilt. A death certificate alone might not be enough to induce belief in the death of a missing person. The State authorities that issue death certificates have a responsibility, as does the ICRC when it delivers information on death, to ensure the authenticity of the information contained therein; the certificates should include information on the cause of death and the availability of the human remains.
- 8.5 The process of informing the families about the death of a relative and of returning personal effects or human remains must be well prepared.
- 8.6 Commemorations play an important role for the families of missing persons. They should be supported, but their planning and organization should be under the control of the families and communities concerned.

International Conference of Governmental and Non-Governmental Experts (Geneva, 19-21 February 2003) - Outcome

Working Group on the *Observations and Recommendations*: Report by the Chairman to the Plenary, Mr Nicolas Michel, Director, Directorate of Public International Law, Federal Department of Foreign Affairs, Switzerland

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The objective of the Working Group was to have an overview of the *Observations and Recommendations*⁴, to share considerations on this document's relationship to the process launched by the ICRC on *The Missing*, and to comment upon and clarify its text. The Working Group was not intended to be a forum for negotiations, nor the *Observations and Recommendations* to be a legally binding document. There was a common understanding that the *Observations and Recommendations* should not be interpreted in anyway as undermining existing legal standards. The *Observations and Recommendations* should be seen as an operational tool containing practical measures.

As it was understood that the *Observations and Recommendations* were to be adopted by consensus, additional comments and proposals on this text had to be presented in a separate but related document. These comments and proposals are presented in this Report, which is part of the official Acts of the Conference. The *Observations and Recommendations* are to be read together with this Report.

The Working Group was open to all Conference participants and was well attended. As the Chairman of the Working Group, my role was enormously facilitated by the positive and constructive atmosphere prevailing during our work.

The substantive work of the Working Group began with a presentation demonstrating the links between the contents of the *Observations and Recommendations* and the ICRC Report: *The Missing and Their Families – Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Non-governmental Experts (19-21 February 2003)*⁵. The Working Group then proceeded to discuss each section of the text in order to obtain clarifications and exchange views. I will do my best to reflect the main points.

Many participants expressed their gratitude for the work done by the governmental and non-governmental experts as well as by the ICRC in the preparation of the text and for the text's added value, which will stimulate all actors in better understanding and implementing the full spectrum of operational best practices related to the problem of persons unaccounted for. It was repeated that the *Observations and Recommendations* should be seen as a focal point for future practical action.

During the discussion, it was recalled that the term "missing persons" should be understood in its broadest sense. Missing persons or persons unaccounted for are those whose families are without news of them and/or are reported missing on the basis of reliable information. People become unaccounted for due to a wide variety of circumstances, such as displacement, whether as an internally displaced person or a refugee, being killed in action during an armed conflict, or forcibly or involuntarily disappearing. Particular attention was drawn to the vulnerability of children, and it was said that, in addition to the term "unaccompanied children" used in the text, reference to the term "separated children" should also be made. Regardless of the circumstances for which a person becomes unaccounted for, the families need to know the fate of their relative. However, different approaches are needed to handle the varied circumstances.

Because of the reference to armed conflict and internal violence in the text, several participants raised the question whether all persons unaccounted for are covered by the *Observations and Recommendations*. Armed conflict and internal violence take place in a large number of contexts in the world today, and most circumstances in which persons become unaccounted for occur in these situations. Nevertheless, it was emphasized that the work of the experts in this process on *The Missing* may, in fact, be used in efforts concerning persons missing in all situations, if appropriate.

The need to recognize the universal right to know was strongly advocated. Numerous participants affirmed its existence and customary character; others specifically referred to regional and domestic jurisprudence on the

4 TheMissing/Conf/02.2003/EN/1

5 ICRC/TheMissing/01.2003/EN/10

The Missing and their Families

Documents of reference

right to know. It was also affirmed that the right to know can, in addition to the specific reference in Art. 32 of the First Additional Protocol of 1977 applicable in international armed conflicts, be deduced from the Geneva Conventions' general obligations to provide information on detainees and internees, thus, demonstrating the existence of the families' right to know. In addition, the right to know was compared with other rights, such as the right to health, as not being obligations of result. This means that in the face of proven impossibility to provide information, there could be no violation of the right to know. These delegations were in favour of introducing stronger language on the right to know. However, other participants made the reminder that the Working Group was discussing a consensus-orientated text in a forum with inherent limitations, as there are representatives of States, inter-governmental organisations and non-governmental organisations as well as independent experts involved. These participants expressed the view that not all agree that there is a universal right to know; they mentioned that not all States adhere to the First Additional Protocol of 1977 and some debate the customary character of this right.

Some participants spoke of the essential role played by National Societies of the Red Cross and Red Crescent in the clarification of the fate of missing persons by the reestablishment of family links (RFL) and through tracing programs. Addressing the problem of *The Missing* at the International Conference of the Red Cross and Red Crescent to be held in Geneva in December, 2003, will further stress this issue's importance and facilitate coordinated action.

When referring to preventive measures, the need for *effective* protection was emphasized. When discussing internationally recognized standards on the deprivation of liberty, it was recalled that the right to access to justice, including *habeas corpus*, must be respected in all circumstances. In addition, as the text makes specific mention of international humanitarian and human rights law, it was suggested to also refer to refugee law.

It was further said that preventive measures must and can indeed be taken by armed groups. Unless armed groups are included in the solutions, the problem of missing persons will be far from adequately addressed. Obligations foreseen by international humanitarian law applicable in non-international armed conflicts are equally addressed to States and armed groups taking part in the conflict. Practical means, taking into account the specificities of armed groups, should be explored and developed, including in cooperation with these groups.

Regarding the clarification of the fate of persons unaccounted for, it was repeated that clarification entails fully elucidating the fate, including the whereabouts and, if dead, the cause of death. In order to maximize the effectiveness in clarifying the fate of persons unaccounted for, the proper handling of personal information is essential. It was highlighted that the information collected be used only for the humanitarian purpose for which it was collected, so as not to once again sacrifice the dignity of the persons concerned. The need for special safeguards on personal data and the need to respect the relevant standards and principles on the protection of personal data were stressed. It was also stated that information must be properly preserved for historical and research purposes.

While recognizing that information on the fate of a missing relative is essential for the family, several participants made the reminder that the other needs of the families must not be ignored. For example, if the missing family member is dead, the swift return of the human remains is fundamental to many families in order for them to complete the mourning process. The needs of the families for acknowledgement and accountability were referred to. With respect to accountability, it was clarified that in the text "government authorities" includes the judiciary.

Despite the fact that many participants would have preferred the use of stronger language, the *Observations and Recommendations* will nourish this process on resolving the problem of people unaccounted for as a result of armed conflict and internal violence and to assist their families. This process is complementary to others. As an example, specific reference was made to the *UN inter-sessional open-ended working group on a draft legally binding normative instrument for the protection of all persons from enforced disappearances*.

Certain participants referred to the lack of resources as a main reason for not correctly dealing with the issue of missing persons. For instance, without adequate resources the often very expensive methods necessary to identify the dead are not used, nor are means of personal identification easily available.

Finally, it has been reaffirmed that the issue of missing persons and their families must be appropriately addressed. Further social stigmatisation of families of missing persons will thus be avoided. Those responsible can no longer ignore missing persons or their families.

Observations and Recommendations - Adopted by Consensus on 21 February 2003

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The participants in this Conference

- (I.) *Appreciating and drawing upon* the process launched by the International Committee of the Red Cross (ICRC) on the "Missing and their Families" and recognising the importance of exploring, and heightening international awareness of, the problem of people unaccounted for as a result of armed conflict or internal violence⁶,
- (II.) *Recognising* that uncertainty about the fate of their family members is a harsh reality for countless families, including relatives and close friends, which are thus themselves victims of the situation,
- (III.) *Recognising* that until they know whether their family members are alive or dead, families are unable to gain closure on the violent events that disrupted their lives and to move on to personal or community rehabilitation and reconciliation,
- (IV.) *Alarmed* that the resentment caused by the humiliation and suffering of families and neighbours often undermines relations between communities for future generations,
- (V.) *Aware* that preventing persons from becoming unaccounted for and addressing the consequences when they occur are complex tasks that involve numerous actors and require coordination,
- (VI.) *Having regard* to the relevant international instruments and standards of international humanitarian and human rights law and aware that the United Nations and the International Conferences of the Red Cross and Red Crescent have addressed this topic and continue to do so,
- (VII.) *Convinced* of the need to take action to prevent persons from becoming unaccounted for, to ascertain their fate, to assist their families and to hold accountable those responsible for events leading to persons becoming unaccounted for,

Make the following observations and recommendations and encourage their dissemination and application:

1. It is essential to protect all persons from becoming unaccounted for, without distinction as to the deliberate or incidental character of the events leading to the persons becoming unaccounted for.
2. It is essential that families are allowed to know the fate, including the whereabouts and, if dead, the cause of death, of their family members who are unaccounted for.
3. The principal responsibility in preventing all persons from becoming unaccounted for and in ascertaining the fate of all those unaccounted for as soon as reported missing lies with government authorities; armed groups also have a responsibility in this regard.
4. Inter-governmental organisations and the ICRC, acting in conformity with their respective mandates, should be available to support government authorities and armed groups in fulfilling their responsibilities, and, when they cannot or will not meet their responsibilities, inter-governmental organisations and the ICRC should act accordingly.
5. Non-governmental organisations, acting in accordance with their own mandates, should maximize efforts to prevent persons from becoming unaccounted for and to clarify the fate of those who have become unaccounted for.
6. It is essential that all those involved respect each individual's inherent human dignity in all circumstances.
7. Every effort should be made to respect the cultural, social and religious or spiritual context specific to each situation.

⁶ For the purpose of these Observations and Recommendations, **internal violence** means internal disturbances (internal strife) and situations requiring a specifically neutral and independent institution and intermediary in conformity with the *Statutes of the International Red Cross and Red Crescent Movement*, article 5(2)(d) and 5(3), adopted by the Twenty-fifth International Conference of the Red Cross at Geneva in October 1986 and amended by the Twenty-sixth International Conference of the Red Cross and Red Crescent at Geneva in December 1995.

The Missing and their Families

Documents of reference

8. Prevention

Respect for international humanitarian and human rights law is fundamental in preventing persons from becoming unaccounted for. It is important that full implementation by States Parties and dissemination of these obligations be ensured. Preventive measures that can be taken include:

- 8.1 providing means of personal identification to all members of the armed forces and armed groups;
- 8.2 making means of personal identification easily available to all concerned persons;
- 8.3 respecting internationally recognised standards regarding the deprivation of liberty, providing immediate notification to families, counsel or other persons having a legitimate interest in the detained persons and preventing extra-judicial executions, torture and detention in secret locations;
- 8.4 ensuring that family members wherever they may be, including members of armed forces or armed groups and their family members, can communicate with each other at regular intervals;
- 8.5 accountability, including fighting impunity.

9. Clarification of the fate of persons unaccounted for

It is crucial that families receive information on the individual fate of their unaccounted for family members. The families and communities also need both acknowledgment of the events leading to persons becoming unaccounted for and perpetrators held accountable. Measures that can be taken include:

- 9.1 government authorities and armed groups enabling independent investigations to be carried out to clarify the fate of persons unaccounted for and to provide information;
- 9.2 avoiding obstruction of, interference with or impediments to the clarification of the fate of persons unaccounted for;
- 9.3 setting up, whenever necessary, complementary mechanisms, judicial or non-judicial, to respond to the families' needs;
- 9.4 addressing issues related to reparation;
- 9.5 providing to the family, in accordance to judicial guarantees and procedures and privacy rights, information collected during criminal investigations that sheds light on the fate of a person unaccounted for.

10. Information management and the processing of files on persons unaccounted for

Coordination of the activities of all those involved and sharing information will heighten the effectiveness of the action taken to ascertain the fate of persons unaccounted for. Measures that can be taken include:

- 10.1 ensuring that the information collected on persons unaccounted for be comprehensive, yet limited to that which is necessary for the purpose identified and is impartially collected and processed;
- 10.2 sharing information on the methods and objectives of the data collection and processing procedures by those involved;
- 10.3 exchanging between those involved the information collected in a manner consistent with point 10.5 and without endangering victims, the persons collecting the information or the sources of the information;
- 10.4 centralising the information collected to increase the possibilities of informing the families about the fate of their members, in particular by:
 - A. at the latest at the outbreak of an armed conflict, setting up an Information Bureau to collect and transmit information;
 - B. forwarding to a neutral, impartial and independent humanitarian organisation, such as the ICRC, personal information that may serve to ascertain the fate of persons unaccounted for;
- 10.5 respecting the relevant standards and principles on the protection of personal information whenever information, including medical and genetic information, is managed and processed.

The Missing and their Families

Documents of reference

11. Management of human remains and of information on the dead

The principle responsibility in the proper handling of all the dead without adverse distinction and in providing information to the families with a view to preventing anxiety and uncertainty lies with government authorities and armed groups. Measures that can be taken include:

- 11.1 ensuring that all feasible measures are taken to identify the human remains of those who died and to record their identity;
- 11.2 avoiding obstruction of, interference with or impediments to the identification of human remains;
- 11.3 issuing death certificates;
- 11.4 ensuring that all those involved respect the legal rules and professional ethics applicable to the management, exhumation and identification of human remains;
- 11.5 ensuring that forensic specialists, whenever possible, carry out the procedures to exhume and identify human remains;
- 11.6 ensuring adequate training to all persons collecting information on the dead and handling human remains;
- 11.7 beginning a process of exhumation and identification only once a framework has been agreed upon by all those concerned and ensuring that the framework includes:
 - A. the establishment of protocols for exhumation, *ante mortem* data collection, autopsies and identification based on scientifically valid and reliable methods and technologies and/or customary, clinical or circumstantial evidence that are deemed appropriate and which have been previously adopted by the scientific community;
 - B. appropriate means of associating the communities and the families in the exhumation, autopsy and identification procedures;
 - C. procedures for handing over the human remains to the family;
- 11.8 respecting and developing professional ethics and standards of practice for forensic specialists working in international contexts.

12. Support for the families

The material, financial, psychological and legal needs faced by families awaiting clarification of their family members' fate should be addressed by the concerned authorities, when necessary with the support of inter-governmental and non-governmental organisations as well as of the ICRC. Measures that can be taken include:

- 12.1 providing targeted assistance with the aim, as soon as circumstances allow, of promoting the families' self-sufficiency;
- 12.2 addressing the legal situation of persons unaccounted for and the consequences for family members, including in terms of property administration, guardianship and parental authority;
- 12.3 ensuring children special support and protection, and in particular taking measures to reunite unaccompanied children with their families;
- 12.4 ensuring that the needs of single heads of families be the object of special attention, taking into consideration the specific needs faced by women in such situations;
- 12.5 ensuring that the families of persons unaccounted for benefit from support programmes in order to adapt to their altered situations and come to terms with the events; psychological support, and whenever necessary and feasible psychiatric treatment, should be provided to those in need; all programmes should be built, as much as possible, on the local health and healing systems;
- 12.6 encouraging family networks and associations, which can provide a forum for mutual support.

13. Families and mourning

Respect for the dead and for local funeral rites supports peace and social order. The process by which the families are informed that a family member has died and human remains and/or personal effects are returned needs to be well prepared. In addition:

- 13.1 the dead and the mourning practices of individuals and communities concerned need to be respected in all circumstances;
- 13.2 commemorations, the planning and organisation of which should be left to the families and communities concerned, need to be supported.

The Missing and their Families
Documents of reference

28th International Conference of the Red Cross and Red Crescent (Geneva, 2-6 December 2003)

Resolution 1: Adoption of the Declaration and Agenda for Humanitarian Action (6 December 2003)

The 28th International Conference of the Red Cross and Red Crescent (“the Conference”),

A.

Taking note with appreciation of the measures taken to implement the Plan of Action adopted by the 27th International Conference,

welcoming the report on implementation of the Plan of Action adopted by the 27th International Conference, prepared by the ICRC and the International Federation,

encouraging all members of the Conference to continue their work on the implementation of that Plan of Action.

B.

1. *adopts* the Declaration of the 28th International Conference,
2. *stresses* the need to reinforce implementation of and respect for international humanitarian law, and in this regard
 - *notes* that all States must take national measures to implement international humanitarian law, including training of the armed forces and making this law known among the general public, as well as the adoption of legislation to punish war crimes in accordance with their international obligations,
 - *calls upon* States to use and to ensure the effective functioning of existing implementation mechanisms of international humanitarian law, pursuant to international obligations undertaken by them, and *calls upon* States party to the 1977 Additional Protocol I to the 1949 Geneva Conventions, which have not yet recognised the competence of the International Fact-Finding Commission pursuant to Article 90 thereof, to consider again the possibility of doing so,
3. *adopts* the Agenda for Humanitarian Action,
4. *urges* all members of the Conference to implement the Declaration and the Agenda for Humanitarian Action, in accordance with their respective powers, mandates and capacities, with a view to reaching the goals defined,
5. *invites* international and regional organizations to implement the commitments of the Declaration and the Agenda for Humanitarian Action which concern them,
6. *requests* all members of the Conference to make every possible effort to ensure that all actors concerned implement, as appropriate, the Declaration and the Agenda for Humanitarian Action,
7. *requests* the Standing Commission of the Red Cross and Red Crescent to encourage and further the implementation of the present Resolution, including the Declaration and the Agenda for Humanitarian Action, according to its statutory mandate, through consultations with States party to the Geneva Conventions and other actors,
8. *requests* all members of the Conference to inform the ICRC and the International Federation on progress made with the implementation of the Declaration and the Agenda for Humanitarian Action, with a view to the presentation of a report on implementation to the International Conference in 2007,
9. *requests* the ICRC and the International Federation to implement and support the implementation of the Declaration and the Agenda for Humanitarian Action through the work of their respective headquarters and delegations,
10. *requests* the members of the Conference to report to the International Conference in 2007, on the follow-up given to their pledge(s).

The Missing and their Families

Documents of reference

C.

11. *thanks* the ICRC for its report on "International Humanitarian Law and the Challenges of Contemporary Armed Conflicts" and *invites* it to continue to generate reflection and conduct consultations on the issues identified therein as well as to analyze future challenges,
12. *takes note with appreciation* the efforts undertaken by the ICRC to conduct the study on customary international humanitarian law and *requests* the ICRC to continue its work and to report to the International Conference in 2007,
13. *welcomes* the study carried out by the International Federation in response to the request made by the 27th International Conference on "National Red Cross and Red Crescent Societies as auxiliaries to the Public Authorities in the Humanitarian Field", in particular *notes* the concept outlined in the conclusions of the study concerning the "Characteristics of a balanced relationship between States and National Societies", and *invites* the International Federation to continue its work on this subject further extending the work to include more in-depth consultations with States, as well as with National Societies and to report further to the International Conference in 2007.

Agenda for Humanitarian Action (6 December 2003) - Excerpt

Introduction

The Agenda for Humanitarian Action focuses on the main theme and overall goal of the International Conference, namely *Protecting Human Dignity*, and sets out action-oriented goals and measures that States and the components of the International Red Cross and Red Crescent Movement⁷ can undertake to protect human dignity.

Four humanitarian concerns are addressed in the Agenda:

- ❖ *Address the issue of persons missing in connection with armed conflict or other situations of armed violence leading to numerous persons becoming missing (hereinafter referred to as "other situations of armed violence") and that of assistance to their families, taking into account the observations and recommendations of the ICRC International Conference of Governmental and Non-Governmental Experts held in Geneva on 19-21 February 2003;*
- ❖ *Address the human costs of the availability, use and misuse of weapons in armed conflicts;*
- ❖ *Reduce the risk and impact of disasters and improve preparedness and response mechanisms;*
- ❖ *Reduce the risk and impact of HIV/AIDS and other infectious diseases with regard to vulnerable people.*

The Agenda for Humanitarian Action sets out a number of clear, measurable, realistic objectives for Conference members to achieve from 2004 to 2007. These objectives relate to areas in which the International Conference, as a unique forum bringing together States and the components of the Movement, can make a specific contribution to solving current concerns and challenges in the humanitarian field, without duplicating existing efforts in other international forums to address similar issues. However, the impact of the Agenda for Humanitarian Action will depend on the active commitment of all Conference members to its full implementation.

Enhancing protection in armed conflicts and other situations of armed violence

General objective 1

Respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families.

The aim is to resolve the problem of missing persons, assist their families and prevent others from becoming missing,

by increasing efforts by governments, the military, and national and international organizations – including the worldwide Red Cross and Red Crescent network – to take concrete action and to reaffirm, reinforce and steadfastly respect and implement the protection afforded by international law,

in order to ensure accountability on the part of the authorities responsible for resolving these issues.

Final Goal 1.1

Prevent persons from becoming missing

In armed conflict or other situations of armed violence, all persons are protected from becoming missing, without distinction as to the deliberate or incidental character of the event.

Actions proposed

- 1.1.1 State authorities take effective measures to provide means of personal identification, at a minimum identification discs, for all members of armed and security forces and to ensure their compulsory and proper use.
- 1.1.2 State authorities take effective measures to provide means of personal identification for minors at risk and to make such means readily available to all concerned persons.

⁷ The International Red Cross and Red Crescent Movement is composed of the International Committee of the Red Cross (referred to herein as the "ICRC"), the National Red Cross and Red Crescent Societies (referred to herein as the "National Societies") and the International Federation of Red Cross and Red Crescent Societies (referred to herein as the "International Federation"). Throughout this document, the term "Movement" covers all the aforementioned components.

The Missing and their Families

Documents of reference

- 1.1.3 State authorities and other concerned actors, in particular National Societies, take effective measures to increase knowledge among civilians on how to protect themselves from becoming missing. These concerned actors and the ICRC take measures to gain access to all civilians and to register those at risk of becoming missing.
- 1.1.4 State authorities and other concerned actors, in particular National Societies and the ICRC, take effective measures to ensure that during armed conflict or other situations of armed violence all persons are allowed to maintain contact with their relatives.
- 1.1.5 State authorities take effective measures to immediately notify families, counsel and any other person with a legitimate interest in the matter, of the situation of persons deprived of their liberty and to prevent extra-judicial executions, torture and detention in secret locations.

Final Goal 1.2

Ascertain the fate of missing persons

Article 32 of the 1977 Additional Protocol I refers to the right of families to know the fate of their relatives. In this spirit, families are to be informed of the fate, including the whereabouts, and, if dead, the cause of death of their family members who are missing as a result of armed conflict or other situations of armed violence. Families and communities receive acknowledgement of the events leading to persons becoming missing, and the perpetrators of violations leading to such situations be held accountable.

Actions proposed

- 1.2.1 State authorities and other concerned actors, in particular National Societies and the ICRC, take effective measures to ensure that families know the fate, including the whereabouts, of their missing relatives. In case of death of these relatives, family members should know the cause and circumstances of death, in order to facilitate acceptance of their death and the commencement of the mourning process.
- 1.2.2 State authorities take effective measures to set up, whenever necessary, appropriate mechanisms for responding to the need of families for information, official acknowledgement and accountability.

Final Goal 1.3

Manage information and process files on missing persons

The collection and sharing of information by all those concerned is properly and actively undertaken and coordinated, thereby strengthening the effectiveness of actions taken to ascertain the fate of missing persons as a result of armed conflict or other situations of armed violence.

Actions proposed

- 1.3.1 State authorities and other concerned actors, in particular National Societies and the ICRC, take effective measures to properly compile, manage and process files on missing persons and to properly centralize personal information that may serve to ascertain their fate.
- 1.3.2 State authorities and other concerned actors, in particular National Societies and the ICRC, take effective measures to respect relevant standards and principles regarding the protection of personal information wherever such information, including medical and genetic information, is collected, managed and processed.

The Missing and their Families

Documents of reference

Final Goal 1.4

Manage human remains and information on the dead

Information is provided on those who have died in connection with armed conflict or other situations of armed violence so as to reduce the number of missing persons, help ascertain the fate of those who are missing and put an end to the uncertainty and anxiety of their families.

Actions proposed

- 1.4.1 State authorities and other concerned actors, in particular National Societies and the ICRC, take effective measures to properly search for, collect, identify and dispose of human remains without adverse distinction, while respecting the dead and the secular_and religious mourning practices of the individuals and communities concerned.
- 1.4.2 State authorities and other concerned actors take effective measures to agree upon a framework for exhumation and identification before beginning any such process, and ensure that forensic specialists, whenever possible, carry out all procedures to exhume and identify human remains.

Final Goal 1.5

Support families of missing persons

While the families of missing persons undergo much the same experiences as the rest of the population affected by armed conflict or other situations of armed violence, in addition, they have unique needs associated with the disappearance of a relative, which vary according to the context and are specifically addressed.

Action proposed

- 1.5.1 State authorities and other concerned actors, in particular National Societies, the ICRC and the International Federation, take targeted measures to protect and assist the families of missing persons, paying attention to the particular needs of women and children.

Final Goal 1.6

Encourage organized armed groups engaged in armed conflicts to resolve the problem of missing persons, assist their families and prevent others from becoming missing

State Parties to the Geneva Conventions and other concerned actors, in particular the ICRC and, where possible, National Societies, encourage organized armed groups to fulfil general objective 1, including its final goals and the corresponding actions.

... Continued by : General objective 2, 3 and 4

The Missing and their Families
Documents of reference