



## **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**

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

## **Conference Acts**

### **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.



**ICRC**



## Table of content

<b>Table of content</b> .....	<b>3</b>
<b>1. Program</b> .....	<b>5</b>
1.1 Wednesday, 19 February 2003.....	5
1.2 Thursday, 20 February 2003 .....	6
1.3 Friday, 21 February 2003 .....	7
<b>2. Rules of the Conference</b> .....	<b>9</b>
<b>3. Opening of the Conference</b> .....	<b>13</b>
3.1 Opening Statement by Ms Yvonne Visaka Dharmadasa, President, Parents of servicemen missing in action (Sri Lanka) .....	13
3.2 Opening Statement by Mr Leonard Rubenstein, Executive Director, Physicians for Human Rights .....	14
3.3 Opening Statement by Mr Jean-Marc Boulgaris, Ambassador, <i>Permanent Representative of Switzerland to the United Nations Office and to the other international organizations in Geneva</i> .....	15
3.4 Opening Statement by Mr Sergio Vieira de Mello, High Commissioner for Human Rights, United Nations - Office of the High Commissioner for Human Rights.....	16
3.5 Opening Statement by Mr Jakob Kellenberger, President, International Committee of the Red Cross (ICRC).....	18
3.6 Presentation of the Conference by the Chairman, Mr Yves Sandoz, Member of the ICRC .....	19
3.7 Presentation of the ICRC Report by Ms Sophie Martin, Head of Project, <i>The Missing</i> , ICRC.....	21
<b>4. Panel: Families and their need to know the fate of their relatives</b> .....	<b>25</b>
4.1 Panel Presentation .....	25
4.2 Official Speakers .....	26
4.2.1 Ms Ariane Tombet Caushaj, Deputy Head of Project, The Missing, ICRC .....	26
4.2.2 Ms Margriet Blaauw, MD, Master in International Health, International Rehabilitation Council for Torture Victims .....	27
4.2.3 Mr Yvan Droz, Doctor of Ethnology, Associate Professor at the Geneva Graduate Institute of Development Studies (IUED) .....	29
4.3 Panel Report to the Plenary, by Ms Asta Maria Zinbo, Director, Civil Society Initiatives, International Commission on Missing persons (ICMP) .....	30
<b>5. Panel: Members of armed forces and armed groups: identification and Information bureau</b> .....	<b>33</b>
5.1 Panel Presentation .....	33
5.2 Official Speakers .....	34
5.2.1 Mr Tetsuo Itani, Adviser to the Armed Forces, Unit for Relations with Armed and Security Forces, ICRC .....	34
5.2.2 Ms Barbara Cooper, Deputy Director, Service Personnel Policy (Welfare and Families), Ministry of Defence (United Kingdom of Great Britain and Northern Ireland (the)).....	35
5.2.3 Ms Visaka Dissanayake, Doctor, Project Officer, Rana Viru Seva Authority (RVSA) (Sri Lanka)..	37

5.3	Panel Report to the Plenary, by Mr Colin Nobbs, Lieutenant Colonel, UK Army, Chief G1, NATO, Headquarters Allied Command Europe Rapid Reaction Corps (HQ ARRC).	38
<b>6.</b>	<b>Panel: Collection, exhumation and identification of human remains</b>	<b>43</b>
6.1	Panel Presentation	43
6.2	Official Speakers	44
6.2.1	Mr Robin Coupland, Doctor, Health Coordinator, Assistance Division & Legal Division, ICRC	44
6.2.2	Mr Djordje Alempijevic, Doctor, Forensic Pathologist, Institute of Forensic Medicine (Serbia and Montenegro)	45
6.2.3	Mr Markus Rothschild, Professor, German Society of Legal Medicine (Germany)	47
6.2.4	Mr Luis Fondebrider, Member, Argentine Forensic Anthropology Team (EAAF) (Argentina)	48
6.3	Panel Report to the Plenary, by Mr Roberto Ricci, Policy Planning and Methodology Team, Human Rights Officer, Office of the United Nations High Commissioner for Human Rights	49
<b>7.</b>	<b>Panel: Mechanisms to solve issues on people unaccounted for</b>	<b>51</b>
7.1	Panel Presentation	51
7.2	Official Speakers	52
7.2.1	Mr Richard Lyster, Commissioner, Truth and Reconciliation Commission (South Africa)	52
7.2.2	Ms Vasuki Nesiah, Doctor, Senior Associate, International Center for Transitional Justice, New York	54
7.2.3	Mr Marco Sassoli, Professor at the Faculty of Political Science and Law of the University of Quebec in Montreal (Canada)	55
7.3	Panel Report to the Plenary, by Mr Javier Ciurlizza Contreras, Executive Secretary, Truth and Reconciliation Commission (Peru)	57
<b>8.</b>	<b>Working Group on the <i>Observations and Recommendations</i></b>	<b>59</b>
8.1	Report to the Plenary by the Chairman, Mr Nicolas Michel, Director, Directorate of Public International Law, Federal Department of Foreign Affairs (Switzerland)	59
8.2	<i>Observations and Recommendations</i> , Adopted by Consensus on 21 February 2003	61
<b>9.</b>	<b>Plenary General Debate: Report</b>	<b>65</b>
<b>10.</b>	<b>Plenary Final Statements: Summary</b>	<b>69</b>
<b>11.</b>	<b>Closing of the Conference</b>	<b>71</b>
11.1	Statement by Mr Jacques Forster, Permanent Vice-President, ICRC	71
11.2	Conclusion and Closing of the Conference by the Chairman, Mr Yves Sandoz, Member of the ICRC	72
<b>12.</b>	<b>List of participants</b>	<b>75</b>

## 1. Program

TheMissing/Conf/02.2003/EN/4/Rev 1

### 1.1 Wednesday, 19 February 2003

08:00 – 10:00

*Registration*

10:00 – 12:30 and 14:00 – 18:30

*Plenary*

- Opening and introductory speeches
  - o Ms Yvonne Visaka Dharmadasa, President, *Parents of Servicemen Missing in Action* (Sri Lanka)
  - o Mr Leonard Rubenstein, Executive Director, *Physicians for Human Rights*
  - o Mr Sergio Vieira de Mello, High Commissioner for Human Rights, *Office of the United Nations High Commissioner for Human Rights*
  - o Mr Jean-Marc Boulgaris, Ambassador, *Permanent Representative of Switzerland to the United Nations Office and to the other international organizations in Geneva*
  - o Mr Jakob Kellenberger, President, *International Committee of the Red Cross*
  - o "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)" (ICRC/TheMissing/01.2003/EN/10) - Presentation by Ms Sophie Martin, Head of Project, *The Missing, International Committee of the Red Cross*
- General debate

16:30 – 18:30

*Working Group on the Observations and Recommendations*

19:00 – 21:00

*Reception offered by the International Committee of the Red Cross at the CICG*

## 1.2 Thursday, 20 February 2003

09:00 – 12:30

**Plenary: General debate**

09:00 – 12:30 (and, if necessary, 14:00 – 18:00)

**Working Group on the Observations and Recommendations**

13:30 – 15:30

- **Panel: Families and their need to know the fate of their relatives**

Chairman: Mr Habib Nassar, Vice-President, *Committee of Families of Kidnapped and Disappeared in Lebanon* (Lebanon)

Rapporteur: Ms Asta Maria Zinbo, Director, *Civil Society Initiatives, International Commission on Missing Persons*

Official Speakers:

- o Ms Margriet Blaauw, MD, Master in International Health, *International Rehabilitation Council for Torture Victims*
- o Mr Yvan Droz, Doctor of Ethnology, Associate Professor, *Geneva Graduate Institute of Development Studies (IUED)*, Geneva (Switzerland)
- o Ms Ariane Tombet Caushaj, Deputy Head of Project, *The Missing, International Committee of the Red Cross*

- **Panel: Collection, exhumation and management of human remains**

Chairman: Mr Eric Stover, Director, Professor, *Human Rights Center, University of California* (United States of America (the))

Rapporteur: Mr Roberto Ricci, Policy Planning and Methodology Team, Human Rights Officer, *Office of the United Nations High Commissioner for Human Rights*

Official Speakers:

- o Mr Djordje Alempijevic, Doctor, Forensic Pathologist, *Institute of Forensic Medicine* (Serbia and Montenegro)
- o Mr Robin Coupland, Doctor, Health Coordinator, Assistance Division & Legal Division, *International Committee of the Red Cross*
- o Mr Luis Fondebrider, Member, *Argentine Forensic Anthropology Team (EAAF)* (Argentina)
- o Mr Markus Rothschild, Professor, German Society of Legal Medicine (Germany)

16:00 – 18:00

- **Panel: Members of the armed forces and armed groups : identification and Information Bureau**

Chairman: Mr Titus K. Githiora, Brigadier General, Chief of Legal Services, *Ministry of Defence* (Kenya)

Rapporteur: M. Colin Nobbs, Lieutenant Colonel, *UK Army, Chief G1, NATO, Headquarters Allied Command Europe Rapid Reaction Corps (HQ ARRC)*

Official Speakers:

- o Ms Barbara Cooper, Deputy Director, Service Personnel Policy (Welfare and Families), *Ministry of Defence* (United Kingdom of Great Britain and Northern Ireland (the))
- o Ms Visaka Dissanayake, Doctor, Project Officer, *Rana Viru Seva Authority (RVSA)* (Sri Lanka)
- o Mr Tetsuo Itani, Adviser to the Armed and Security Forces, Unit for Relations with Armed and Security Forces, *International Committee of the Red Cross*

16:00 – 18:00

- **Panel: Mechanisms to solve issues on people unaccounted for**

Chairman: Mr Javier Ciurlizza Contreras, Executive Secretary, *Truth and Reconciliation Commission* (Peru)

Rapporteur: Mr Javier Ciurlizza Contreras, Executive Secretary, *Truth and Reconciliation Commission* (Peru)

Official Speakers:

- o Mr Richard Lyster, Commissioner, *Truth and Reconciliation Commission South Africa* (South Africa)
- o Ms Vasuki Nesiah, Doctor, Senior Associate, *International Center for Transitional Justice* (represented at the Conference by Mr Richard Lyster)
- o Mr Marco Sassoli, Professor at the Faculty of Political Science and Law of the *University of Quebec in Montreal* (Canada)

### 1.3 Friday, 21 February 2003

09:00 – 12:30 and 14:00 – 17:00

**Plenary**

- Report on the Panels
- Summary of the Plenary
- Report of the Working Group on the *Observations and Recommendations* and Adoption of the *Observations and Recommendations*
- Final Statements
- Statement by Mr Jacques Forster, Permanent Vice-President, *International Committee of the Red Cross*
- Closing





## 2. Rules of the Conference

TheMissing/Conf/02.2003/EN/3

### Defined by the ICRC in agreement with the Presidents of the Conference and of its Working Group on the *Observations and Recommendations*

#### 1. Composition

- A. Members are governmental and non-governmental experts.
  - a. Each entity represented is allowed to one representative only. Assistants may accompany the representative.
  - b. Seating order in Plenary: English alphabetic order, of countries (short English official name) for governmental entities, organization name for organizations, institution, etc., family name for individual experts.
- B. Bodies:
  - a. Plenary:
    - I. Chaired by Mr Yves Sandoz, Member of the ICRC.
    - II. Assisted for the Secretariat by Mr Jean-Paul Fallet.
  - b. Working Group on the *Observations and Recommendations*:
    - I. Chaired by Mr Nicolas Michel, Director, Directorate of Public International Law, Federal Department of Foreign Affairs, Switzerland,
    - II. Assisted for the Secretariat by Mr Jean-Luc Blondel.
  - c. Secretariat ensured by the ICRC (Address: Project The Missing, Ms Sophie Martin, Tel: +41 22 730 25 25, e-mail: themissing.gva@icrc.org)
- C. Panels:
  - a. Sessions on dedicated themes.
  - b. Chaired by ICRC invited persons assisted by the Secretariat.

#### 2. Media

- A. Accredited media representatives.
- B. No seating order in the media area.

#### 3. Debates

- A. Working languages: English and French (interpretation provided in both languages)
- B. Public and closed sessions:
  - a. Plenary and Panels are open to all Members and media.
  - b. Working Group on the *Observations and Recommendations*: open to Members only.
- C. Speaking rules in Plenary:
  - a. The Plenary President is responsible for the organization of the work, the good conduct, the order and the efficient procedure of the debate.
  - b. Speakers are only Members of the conference.
  - c. Speakers' interventions shall not exceed 5 minutes.
  - d. Speakers shall not engage in controversies of political, racial, religious or ideological nature.
  - e. For the general debate,
    - I. Speakers must be registered at the Secretariat in writing latest by 31 January 2003;
    - II. Members to the conference are invited to submit their intervention in writing to the Secretariat in French and/or English for distribution; documents shall not exceed two pages.

- D. Speaking rules in the Working Group on the *Observations and Recommendations*:
- a. The President of the Working Group on the *Observations and Recommendations* is responsible for the organization of the work, the good conduct, the order and the efficient procedure of the debate.
  - b. Speakers' interventions shall not exceed 3 minutes.
  - c. Speakers shall not engage in controversies of political, racial, religious or ideological nature.
- E. Speaking rules in Panels:
- a. Official speakers introduce the theme; their intervention does not exceed 10 minutes.
  - b. Speakers' interventions shall not exceed 5 minutes.
  - c. Speakers shall not engage in controversies of political, racial, religious or ideological nature.

#### 4. Documents

- A. **Document to be adopted:** Draft *Observations and Recommendations*  
(TheMissing/Conf/02.2003/EN/1/Draft1)
- a. Distribution
    - I. At disposal as from 12 February 2003 on the Extranet *The Missing*
    - II. Hard copy at disposal of each Member to the conference at registration.
  - b. Adoption in Plenary by consensus.
- B. **Background documents:**
- a. List of documents
    - I. "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)" (ICRC/TheMissing/01.2003/EN/10)
    - II. "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)
    - III. "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)
    - IV. "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)
    - V. "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)
    - VI. "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)
    - VII. "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)
    - VIII. "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)

- IX. "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)
  - X. "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)
    - b. Background documents are available as soon as published on the Extranet *The Missing* in English and French.
    - c. One full set of documents (in English and/or French) will be provided to each Member to the conference at registration.
  - C. Official speakers' statements (opening of the Plenary and Panels): will be distributed as conference documents in English and French.
  - D. Speakers' interventions: when remitted to the Secretariat in writing in English and/or French, will be distributed as conference documents in the given language (will not be translated by the conference Secretariat).
  - E. No other documents will be distributed at the conference.
5. **Acts of the conference** will be published by the ICRC in English and French. They will include:
- A. The adopted *Observations and Recommendations* .
  - B. Statements of the official speakers.
  - C. Summary of the general debate.
  - D. Summary of the Panels.
  - E. List of participants.
  - F. Program.
  - G. Separate Annex: "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)" (ICRC/TheMissing/01.2003/EN/10)



### **3. Opening of the Conference**

#### **3.1 Opening Statement by Ms Yvonne Visaka Dharmadasa, President, Parents of servicemen missing in action (Sri Lanka)**

**TheMissing/Conf/02.2003/EN/18**

First of all I wish to thank the ICRC for giving me the opportunity to share a bit of my ideas with you.

As all of you may know thousands of families around the globe undergo severe mental agony for uncertain periods of time not knowing the very existence of their loved ones.

Main problems faced by the families of unaccounted for can be classified in to three categories.

They are:

1. Psychological problems
2. Social Problems
3. Economical problems

When we speak about the psychological problems, We know that when a family member's very existence is doubtful, the trauma that the family has to undergo can not be described in words.. As we all know death of a family member, how ever much painful it is can be accepted, but not knowing the fate is very different from any other experience that one may encounter in a life time.

The anxiety for the return of the person missing is intense and has a tendency of increasing even after decades. This very special and rear phenomenon is seen by me as the most disadvantageous aspect of healing. As well this adds to ones mindset, not to accept that the person is dead even if it is confirmed after some time. When all this is taken in to consideration, it is understood that the mental agony of the immediate family of the unaccounted for is severe and long lasting.

The second is Social problems, unlike the psychological problems the social problems varies from country to country as well individually. In a country such as Sri Lanka, where there are extended families, this problem has a big impact on the parents and siblings of a married person who is missing.

The main reason for the aggravated social problems are due to the unawareness of the intensity of the mental agony of the family, by the society. All families of those who are unaccounted for suffers from the feeling of isolation, this happens often due to the family's reluctance to participate in social events, and lengthy period of grieving also makes it difficult to integrate into the society or to go back to ones previous lifestyle.

The social problems faced by the wives of those who are unaccounted for are much more severe than the parents. In social structures such as ours, it is very difficult for a single women to lead a family with out a man even if she is economically independent. A young wife has to undergo much insult for the belief that her bad luck caused her husbands death. This accusation first comes from her in-laws and it creates a situation that she has to leave the husband's house with her children if she has any. Even in her own parents house, she may be regarded as a bad omen and will not be invited for family functions etc., From the village and elsewhere there will be many remarks about her bad luck. This situation prolongs as she is unable to remarry because she is not aware whether her husband is alive or not, and she will be waiting for his return, which often become a very long wait.

When we speak about economical problems, it depends a lot on the situation of the missing person within the family, if he or she is the sole breadwinner, then it is a very sad situation often this becomes the fact. As well it depends on the particular person's working condition, whether he/she was entitled for a pension etc., But yet, no matter how wealthy the family was, this situation can create a very big set back on their economical situation solely because the family is mentally disturbed for a very long period of time which will have a big impact on their regular business. When we take this aspect in to consideration, one must remember, though how much trivial a single person reported missing can be seen on the surface, the trouble it will create, eventually will have a great negative impact in numerous ways on the society as a whole.

As parents of Servicemen missing in action in Sri Lanka, we understood that there are few prominent factors which increases the missing issue. One of the main factors are failing to identify the dead bodies. If we can really minimize the problem of unidentified bodies, there will be a huge decrease of the missing. As well if the powers will act according to the Geneva conventions which mentions the declaring of the detainees and respecting the dead etc., it will greatly help those who are earnestly trying to see and end to this very painful situation.

We wish to request all powers, no matter what their situation, whether they have ratified the Geneva conventions or not, to respect and act according to these basic humanitarian requirements such as wearing and respecting the Identification discs, and declaring the detainees. As such acts will be more beneficial to their own power at all times, and will bring them respect from all those who promote human rights.

It is timely and very important that the Governments and the other relevant authorities recognize the role of families Associations of those who are unaccounted for, and give them the required support. As they play a very crucial role on solving missing issue and reducing the impact on the families as well these associations has the capacity and the ability of building bridges across the divide which will help tremendously in healing and reconciliation processes.

On behalf of all those families who are undergoing server mental pain due to the unawareness of the very existence of their loved one, I wish to thank the ICRC, specially for their understanding that this issue has to be addressed and for bringing all of us together.

In conclusion, I wish to request from all those who are present here today, let us find a common ground taking into consideration all the restrictions, obstacles, fears, anxieties and expectations of all those who are in one way or another related to this issue and come up with a declaration which will enhance the rights of the families and minimize their sufferings due to this problem. As we all know, that when one decides to hide a person's existence, he does not hurt that individual, but a family and the society as a whole. Let us not allow such violence of basic human rights to be continued

### **3.2 Opening Statement by Mr Leonard Rubenstein, Executive Director, Physicians for Human Rights**

**TheMissing/Conf/02.2003/EN/17**

People who are unaccounted for in armed conflicts in recent decades are missing not just by their physical disappearance. They, and families so desperate to know their fate, have been largely missing from the concern of states, international organizations, non-governmental organizations, and even from international humanitarian and human rights law.

This is not an accident. States, non-state actors, and international organizations have many reasons for ignoring the missing and their families. In some cases, learning the circumstances of people's disappearance, especially if they have been killed, reveals unpleasant truths about their treatment and sometimes-criminal culpability in disappearance or death. In others, attending to the missing and the needs of their families is considered quite secondary to the immediate needs for food, shelter, medical care, and protection of survivors of armed conflict. More than once I have heard leaders say that the livings are a higher priority for them than the dead – as though the families of the missing are of no consequence. The politics of reconstruction also plays a role in forgoing attention to the missing, which may be seen as destabilizing in a fragile post-conflict setting. Even the institutions of justice essential for accountability may exacerbate the suffering of families by addressing the missing only in the context of evidence for prosecutions. Finally, and perhaps worst, the missing and their families are not seen as having any rights in the sense that refugees and non-combatants do. As a result, no one has an obligation to assure that these rights are respected, protected and fulfilled.

At Physicians for Human Rights, we have seen families of the missing buffeted by inadequate mandates, institutional lassitude, false promises, lack of sensitivity to their grief and loss, and even suppression of information in conflicts as diverse as those in the former Yugoslavia, Cyprus, Rwanda, Georgia/Akhazia, Indonesia, Central America, and now Afghanistan – where the fate of thousands of captured Taliban soldiers remains unknown and few institutions are in a hurry to help families find out.

In recent years, through the work of the ICRC and other organizations, the missing have finally started to gain the world's attention. The field is indeed moving fast in addressing the political, legal, psychosocial, and scientific requirements for a comprehensive and rights-based approach to the missing. We applaud the leadership of the ICRC in convening this international conference to review these developments, to prepare a declaration to establish standards for action. Detailed attention to administrative procedures for collecting and distributing information, protocols for forensic investigations and identifications, and discussion of culturally sensitive methods of family support, all can contribute enormously to meeting the urgent needs of the missing and their families.

We believe the most important and lasting contribution of this conference, and what makes it historic, is placing the missing in a framework of international human rights. Like other rights, the right to know is based fundamentally on human dignity. It is a right to be reunited with a family member who is living and to be able to carry out rituals of burial and mourning for a loved one who has died. At this conference, we can go far to recognize this right to know and insist that governments, non-governmental and international organizations, and the larger community recognize this right. Once a framework for action based on human rights exists, all else can follow, since rights bring with them obligations to protect, respect and fulfill them, and states and others can be held accountable for their conduct regarding the missing effectively and forthrightly.

This conference is thus a milestone. But to succeed, this initiative must be carried forward at the diplomatic level by governments, the United Nations and international organizations. The rights we recognize must be recognized in binding instruments for the protection of all persons against forced disappearances, and the protocols we establish must be adopted by international bodies. Governments must support and encourage best practices by organizations working on behalf of the missing.

At the same time, we must never forget these detailed protocols, and even the right to know, remain the second best solution. Compliance with international humanitarian law, respect for the integrity and dignity of all persons, including non-combatants, will prevent people from being among the missing. That is the greater and still enormously challenging task and one that should not be forgotten.

Thank you very much.

### **3.3 Opening Statement by Mr Jean-Marc Boulgaris, Ambassador, *Permanent Representative of Switzerland to the United Nations Office and to the other international organizations in Geneva***

**TheMissing/Conf/02.2003/EN/14**

Excellencies,

Ladies and Gentlemen,

I have the great honour and pleasure of addressing you briefly today, and of sharing certain thoughts with you on the occasion of the opening of this Conference.

The problem of persons declared missing has preoccupied us for many years and has already been considered by various forums. More than a quarter of a century ago, in 1977, the first Additional Protocol to the Geneva Conventions established the right of families to be informed of the fate of their relatives. The proclamation of this right, considered as fundamental, acknowledged an "important step forward in the field of international efforts to protect human rights." Eleven years ago, the General Assembly of the United Nations adopted a Declaration on the protection of all persons from enforced disappearance. And since the beginning of the year, a Working Group of the Commission on Human Rights has been dedicated to drafting a legally binding normative instrument in this respect. For the last few decades, various international, regional and local instances have been trying to resolve the cases of missing persons and to support the families of the victims. In spite of these various developments, the problem of people unaccounted for still persists. In gathering together today, we are bearing witness to our commitment on both governmental and non-governmental levels and to our will to strengthen our efforts so that we can more efficiently fight against this evil.

Allow me at this stage to share an initial consideration with you, one that is essential to the assessment of the problem of missing persons. The phenomenon of disappearance is not limited to armed conflicts alone, but is also present in cases of internal violence. Therefore, since we are faced with a problem that is relevant to both international humanitarian law and to human rights, the range of possible solutions is much greater. The various initiatives at the international level, be it in international humanitarian law, in human rights, or even in international criminal law as is the case of the newly-created Working Group of the United Nations, demonstrate that the subject must be addressed in its entirety.

This overall view is even more important because the problems associated with missing persons call for very diverse measures. Thus we have come together for three days to consider the operational measures that could be undertaken, both with regard to prevention as well as with regard to the clarification of the fate of missing persons and the support of their families, who are victims themselves. If we want these measures to contribute effectively to eliminating this scourge, they must be implemented unconditionally, in times of peace as well as during internal violence and armed conflict.

My second consideration concerns respect for human dignity. Human dignity is the foundation of our efforts and should govern all of our initiatives in the fight against disappearances. In the first place, full respect for human dignity is the best defence against the phenomenon of missing persons and thus constitutes a major pillar of

prevention. But even more, respect for human dignity is called for in the efforts that we are undertaking to confront the cases of missing persons. Be it in exchanging information on missing persons, in exhuming and examining their remains, or in contact with the families, respect for human dignity is both the reason for all of our efforts and the basis of them. In this sense, we owe it to the families of the victims to maintain this respect during all discussions still to come.

And finally, to the question: 'Should priority be given to searching for missing persons, for whom the probability of death is not negligible, or to supporting their families and an entire community?', I reply once again by invoking human dignity, which leaves no room for ambiguity. Because it is only by clarifying the fate, by investigating the causes of disappearance or death that we will succeed in effectively remedying the constant anxiety and anguish that has been inflicted upon the families of the victims and those close to them. Let us therefore equip ourselves with all the tools we need to address these two tasks at the same time.

In concluding, we would like to congratulate the International Committee of the Red Cross, and all the experts who participated last year in the various studies and workshops, for their involvement in drafting recommendations related to the various aspects of missing persons. At the same time, we would also like to mention our deep appreciation for the Report of the ICRC containing a summary of the results of the first phase of this project. We want to assure you of our full collaboration in this most valuable process. We are looking forward to a conference filled with constructive ideas which will serve, in turn, as a springboard for discussions in other surroundings, and in particular within the scope of the International Conference of the Red Cross and the Red Crescent next December.

Thank you for your attention.

### **3.4 Opening Statement by Mr Sergio Vieira de Mello, High Commissioner for Human Rights, United Nations - Office of the High Commissioner for Human Rights**

**TheMissing/Conf/02.2003/EN/16**

It is a pleasure for me to join you to today at this conference, which I am aware is the culmination of many months' preparation. I would like to give particular thanks to the ICRC for their important efforts at the helm. For decades, the ICRC has been working hard to prevent disappearances, to restore family ties when they have been broken, and to ascertain the whereabouts of people of whom their families have no news. This effort, which is firmly grounded in humanitarian law, has brought much comfort to millions of persons across the globe. This timely expert meeting forces us to think harder about how we can address these phenomena through prevention, protection, and the provision of relief and justice to those who are still waiting to know the fate of their loved ones.

The focus of our meeting is those who are unaccounted for as a result of armed conflict or internal strife. When I think of the missing, I think of people who left home and never came back. I think of victims of enforced disappearance by the state or non-state actors; victims of displacement in times of internal violence or armed conflict as civilians flee in fear and become separated from their families in the ensuing chaos; or participants in armed conflict whose fate is unknown. We all know what is common to all these groups: fathers, mothers, husbands, wives and children who suffer because they do not know the fate of their loved ones. Unable to mourn, to understand, or to forgive, they are left in a torturous state of limbo, often for the rest of their lives. They too are victims.

Ladies and gentlemen,

Our particular worry at the Office of the High Commissioner for Human Rights is those who are forcibly disappeared. They are victims of the most appalling forms of human rights violations, even crimes against humanity. For many years, the international community has worked hard to develop the conceptual, legal, and practical framework for preventing, or - where our efforts fail - alleviating the suffering of these victims. A body of norms already exists to prevent arbitrary detention, to provide for the need to account for all those detained, and to prohibit torture and other cruel, inhuman or degrading treatment or punishment and the arbitrary deprivation of life. These rules must always be applied. Those who violate them must be held accountable. Without that States betray those who entrusted them with their protection.

Since 1980, the UN Working Group on Enforced or Involuntary Disappearances has tried to assist families in clarifying the whereabouts of thousands of persons by urging Governments to conduct appropriate investigations. Many of the cases remain outstanding and it is essential that Governments and non-governmental organizations cooperate with the Working Group to resolve them. **My experience has taught me that the disappeared are often the most contentious issue in peace-making, the question that makes confidence-building all the more difficult. Rightly so.**



The norms and the mechanisms at our disposal are not sufficient however. We need new approaches to address this pernicious problem. Last year, the Commission embarked on a useful exercise to elaborate a new, legally binding instrument that would guarantee - in a substantive and novel way - better protection for current and potential victims of enforced disappearance and provide a comprehensive and integral approach to address the problem. My hope is that the instrument under discussion would be more than a series of negative obligations on States parties to defer from certain actions, but would also impose positive obligations to create the strong mechanisms needed to prevent deviation. Some of the issues currently being considered are straightforward, action-based measures that address this complex problem. I am encouraged by discussions on the need for stronger measures against impunity, cooperation between States, mechanisms against arbitrary detention, training of law enforcement personnel and the guarantee of the right to reparation. **There is indeed a lacuna in international law that needs to be urgently filled. Not that legal instruments provide us with instant solutions. But in the absence of norms, solutions are all the more evasive, haphazard and inhuman.**

Ladies and gentlemen,

In discussing the problem of disappearances during the time of conflict, we must rely on the complementary approaches of human rights and international humanitarian law. Here the role of the ICRC is again crucial, not only in being the guardian of IHL, but also in charting the way forward for protecting individuals during the most difficult circumstances. As the process of preparation for this expert meeting has once again shown, cooperation between ICRC and OHCHR is essential.

While the phenomenon of enforced disappearances is complex, it becomes even more so during conflict, where often more than one party is suspected of such atrocities. Issues such as the fate of the missing should always be at the centre of any peace negotiations ending conflict.

The harsh reality of uncertainty about the fate of loved ones is more than the tragedy of individuals and their families. Lack of knowledge and understanding hinders the broader process of picking up the pieces. Societies cannot reconcile and learn from their mistakes without a collective memory of what took place and why. Truth commissions can ensure that facts remain alive in the collective memory, allowing a society to learn from what is terrible in its past and avoid the same mistakes in the future.

But knowledge is insufficient without acknowledgement. Truth must not be separated from justice. Time and time again, the facts reaffirm that impunity is often the greatest obstacle to real peace. How can people forgive, when they do not even know whom to forgive and when their forgiveness is not even being sought? How can societies in transition really instill faith in the rule of law when the perpetrators of the most heinous crimes are not only unrepentant, but have escaped justice and may even still occupy positions of power?

We have seen the families of the disappeared and human rights defenders the world over persistently looking for answers, sometimes many years after the height of the unrest or armed conflict, and despite persecution. They are a living reminder that impunity is simply not acceptable and that there can only be reconciliation if there is justice.

Ladies and gentlemen,

Let us recall also that our ultimate aim is prevention. Reaction and prevention are not mutually exclusive concepts. Strong democratic, legal, and accessible institutions will be better equipped to discharge the State's obligations and uphold the rule of law. I am thinking of a human-rights oriented executive, parliament and judiciary, and an independent national human rights institution. They have all proven to be indispensable to tackling the plight of the missing.

In conclusion, I wish you success in the deliberations of this expert meeting and look forward to the follow up of these issues in the international conference of the Red Cross and Red Crescent. The challenge ahead of you is to find enhanced and practical approaches to address this distressing problem. You will surely be guided in your work by your commitment to ensure that families will be able to close the cycle of mourning and that such tragedies can be avoided in the future.

**As one human rights defender tried to explain the motivation behind the work he did:**

**“I do not want to be the next in line waiting at home, sitting at the table next to an empty chair, or lying in bed next to an empty pillow, or waiting for that particular person to knock at the door – that never comes.”**

**That is why we are all here today.**

Thank you.

### 3.5 Opening Statement by Mr Jakob Kellenberger, President, International Committee of the Red Cross (ICRC)

TheMissing/Conf/02.2003/EN/13

Excellencies, ladies and gentlemen,

In every situation of armed conflict or internal violence people go missing. There is indeed a variety of reasons why individuals may be unaccounted for. Violations of international humanitarian law or human rights law are at the basis of most cases of missing persons. The International Committee of the Red Cross has, from the very beginning of its existence, sought to forestall disappearances, to restore family links when they have been severed, and to ascertain the whereabouts of missing persons. Yet in many contexts it has been unable to fulfil its mission because of lack of sufficient political will on the part of warring parties, or simply because of the general disruption prevailing in communities affected by armed conflict or internal violence. Other organizations, governmental and non-governmental, come up against similar obstacles.

The international conference that starts today, bringing together almost all organizations, institutions and experts active in efforts to resolve the issue of missing persons, represents an important step forward in a permanent process which has the following aims:

- to review all methods of preventing persons from becoming unaccounted for in armed conflicts and of responding to the needs of families who have lost contact with their relatives;
- to identify and agree on operational practices for the prevention of disappearances and complementary action to address that grave problem;
- to raise awareness of the issue among government authorities, the United Nations and non-governmental organizations, and also among other leaders and opinion-makers.

Sustained efforts have been invested by ICRC staff worldwide to draw together expertise and experience in order to map out the problems that need to be addressed and to propose ways and means of addressing them effectively. I can assure you that all the staff involved have demonstrated an impressive willingness to contribute to this project and to make it a significant move towards providing better protection for individuals in times of armed conflict and internal violence and wider support for those who endure the consequences of such situations.

The ICRC's efforts were driven by the awareness gained over the years all around the world of how desperate the families of missing persons become when they are unable to find out what has happened to their relatives. Like others, ICRC delegates have first-hand experience of how the separation of family members and uncertainty as to the fate of individuals can create breaches between communities and nations. This often overshadows for years and even decades the lives of individuals and relations between communities, constituting a constant threat to the restoration of security, stability and dialogue and a serious obstacle to reconciliation. We are spurred on by the knowledge and experience that disrespect for and wilful attacks against civilians and other protected persons in contemporary armed conflicts have devastated thousands of families and torn numerous communities apart. Urgent and determined action needs to be taken to offer better assistance to those who have lost their loved ones without ever gaining any recognition of their loss. Pressing and uncompromising measures need to be taken so as to spare other families from enduring similar humiliation and pain.

The ICRC is acutely aware of the fact that neither itself nor any other humanitarian organization could ever aspire on its own to prevent persons from becoming unaccounted for or to meet all the needs of the families of the missing.

The duty to respect humanitarian law and to avoid abuses lies with all actors in situations of armed violence. It is, however, first and foremost government authorities and leaders who can take action to prevent disappearances and to deal with the consequences when they occur. National and international humanitarian and human rights organizations need to back them in their efforts, which will involve persuasion, pressure and possibly judicial action. Constructive dialogue and effective implementation of practical measures must be fostered among all parties, including the families of missing persons and their communities.

The ICRC is convinced that the first step towards better protection of persons at risk of becoming unaccounted for and towards the provision of adequate support to families who are without news of a relative is determined reaffirmation of and respect for the relevant existing international and domestic laws and rules. Humanitarian law must become the unavoidable marker for any party involved in armed confrontation. It must be the unconditional guarantee for all persons affected by war against arbitrary harm and gratuitous abuse. It must provide a stronghold for the preservation of justice and human dignity under all circumstances.

In concrete terms, this means that civilian individuals and groups at risk, such as displaced, isolated or besieged people, will be spared from deliberate attack and granted the means to remain in contact with their families; that persons under arrest will be treated humanely and guaranteed due process as well as the possibility to maintain

family links; that the bodies of those killed in battle will be treated with respect and returned to their families. It means that the work of humanitarian organizations will not be obstructed but will be facilitated so that those who are not or are no longer taking part in the fighting can receive protection and assistance; it also means that families who cannot account for the whereabouts of a relative will be provided with adequate support and that every effort will be undertaken to alleviate their anguish.

The ICRC for its part will spare no effort to press for and promote greater respect for international humanitarian law and all other rules that can prevent people from becoming unaccounted for and to address the needs of families of missing persons. It will also strengthen its operational practices with regard to re-establishing family links, elucidating the fate of persons unaccounted for and supporting their families.

It is my conviction that progress also needs to be driven from other directions. Important developments are expected from the work of such bodies as the UN Human Rights Commission's Working Group on Enforced or Involuntary Disappearances and the Working Group on a draft legally binding instrument for the protection of all persons against disappearances. The relentless endeavours of associations and organizations representing the interests of families of missing persons will move governments and international organizations towards ensuring greater respect and support for the people affected. All these efforts are indispensable for improving and consolidating what is being done at present. It is my earnest hope that the preparatory work for this conference and its outcome will provide a strong impetus for the establishment of agreements, guidelines and best practice in the field of prevention and assistance with respect to the issue at hand.

Today we stand at a significant juncture in the complex process that aims to strengthen the measures which can prevent persons from becoming unaccounted for, support families in very difficult circumstances, and spare communities from being torn apart because they have been denied some of their basic entitlements: the right to know the truth and help to deal with it. Major challenges and obstacles stand in the way of this process, but I am confident that the work of this conference will enhance the commitment of all those present to taking practical steps towards overcoming them. For the sake of the many who have faced the devastating violence of war and for the sake of those who may be threatened by it in the future.

### **3.6 Presentation of the Conference by the Chairman, Mr Yves Sandoz, Member of the ICRC**

Ladies and Gentlemen,

I think I can say, after having listened to all these encouraging messages and very moving accounts, that we have been given a great deal of food for thought, as they say in English, and encouragement for each of us to do more and better. Thank you again to all those who took the floor. May their message be heard.

Before the presentation of the summary report drawn up by the ICRC, I should like to say a few words on what will happen in the coming days.

How smoothly our deliberations go depends first and foremost on the objectives we set. I would like those objectives to be absolutely clear, so as to avoid all misunderstandings and to enable the Conference to achieve everything we expect of it.

Let me start by telling you what we do not plan to do, namely adopt a legally binding text. We are not here to negotiate some sort of treaty whose every comma will have to be scrutinized. We do not want this Conference to become an exercise in diplomatic negotiation. Some of you regret that this is the case, others feared it would be. To both of you, I say that it would simply not have been realistic to want to negotiate a legally binding text in a little more than two days, at a conference whose composition is so out of the ordinary, so unusual. Furthermore, the atmosphere of intense negotiation that generally pervades treaty-making conferences is not what we wanted to have here.

It is no accident that the Conference brings together, for the space of a few days, experts from governments, intergovernmental organizations, non-governmental organizations, the ICRC (and with it representatives of the Red Cross and Red Crescent family, the National Societies and their International Federation), scientists representing only themselves and, above all and most importantly, people who have suffered the disappearance of a loved one, representatives of associations of the families of missing persons. This, and the fact that the Conference is open to the media, reflects what the ICRC wanted, and shows us the direction we want to give the Conference, the main objectives we wish to set.

What are those objectives? I will not try to list them exhaustively: the list would be too long. I would, however, once again like to recall the main objectives, because we must bear them in mind throughout the Conference; they must guide each and every one of us in managing the Conference and indicate to us the spirit that should reign.

The first objective is to enable everyone to enhance their understanding of the tragic plight of missing persons and the complexity of certain aspects of the issue.

This brings us quite naturally to the second objective, which is to turn that enhanced understanding to good account and to foster empathy for the victims – who are less “spectacular” than people who are starving, who have been shelled or imprisoned or who have been physically wounded, but whose wounds are just as painful and often do not heal but remain with them throughout their lives.

The third objective is to incite all those involved in the issue to act more effectively and intelligently, to facilitate cooperation between them, to forge alliances between the organizations engaged in tasks related to the issue, with a view to heightening the coherence and effectiveness of their work.

The fourth objective is to help prevent disappearances. This is, of course, a vast objective that must be brought into clearer focus. The best way of preventing disappearances would be to move closer to the objective of peace and justice set forth in the United Nations Charter. That objective must be constantly borne in mind, but it is naturally far beyond the scope of this Conference. The framework for the Conference is nevertheless extremely elastic, covering everything from the unambiguous rejection and punishment of acts that are universally prohibited, even in time of war, such as summary executions, the massacre of innocent people and secret detention, to something as simple as better information. It includes a more professional attitude towards the identification of one’s own combatants, a point that is essential to the families. Let us not forget that the revulsion Henry Dunant felt after the battle of Solferino, which lies at the origin of international humanitarian law and of the Red Cross Movement, stemmed from the unbearably offhanded attitude officers had for their own troops, who had enlisted for their countries and were left to die on the battlefield. It is that same unbearable offhandedness that all too often still results in the provisions on identification being ignored even though such provisions are so easy to implement and would ease so much suffering.

The fifth objective is to mobilize all those who can and should be. All those who can play a role in improving the situation must be made aware of the problem, made to understand its complexity and its importance. No real progress will be made on the issue of missing persons if there is no such sweeping mobilization.

The sixth objective is to obtain the personal commitment of everyone for the cause, to garner their suggestions and ideas, to foster the willingness to cooperate and the determination to enhance understanding and to make more means available.

Yes, these are ambitious objectives and they can be understood only if the Conference is put in proper perspective. This Conference is not an isolated event but both an outcome and a point of departure, a springboard. It is the outcome of many deliberations that produced a wealth of knowledge and ideas set down in the many reports submitted to the Conference and summed up in the ICRC Report. It is a springboard for action, for greater commitment, for improved coordination, for better understanding of the complexity and importance of the work being done on behalf of the missing and their families. The Conference will only be worth the follow-up it is given.

This being said, I would now like to make a few comments on the specific objectives of the meetings to be held during the Conference.

There will be no true dialogue during the general debate – of this there can be no doubt – given the number of participants and speakers, on the one hand, and the time available, on the other. We nevertheless consider that debate to be essential because it gives everyone the opportunity to respond to the information, requests and suggestions contained in the wealth of documents submitted to the Conference, in particular to indicate the highlights of their personal commitment. The general debate also provides a rare opportunity for everyone to hear the accounts of the victims and tangibly to heighten their understanding of the suffering and problems that ensue when someone goes missing. The sum of those accounts and commitments, of the suggestions that may also be made, will be one form of response to the expectations placed in the Conference, and we look forward to hearing it. That response will be set forth in a summary report to which we attach a great deal of importance in the follow-up to the Conference.

Concerning the Working Group, the document *Observations and Recommendations*, which the Conference is asked to approve, is the outcome, greatly summarized, of a long and fruitful process the results of which, as I told you, are to be found in the reports you have received and are summarized in the ICRC Report. It can therefore be said that the *Observations and Recommendations* are the summary of a summary.

The basic text of the *Observations and Recommendations*, which was submitted beforehand, was supplemented before the Conference with the many remarks and suggestions made by those invited to it.

The purpose of the Working Group is to enable each participant, in particular those who have not been directly involved to date, to obtain clarifications, to improve their understanding of the complex issues raised and of the meaning of the text, of what is expected of them, the significance of the commitment they are expected to make.

During both the general debate and the working group, we must keep in mind the very short time allotted to us and the very wide range of backgrounds represented here: there are more than 350 participants from about 90 countries and 250 delegations. We cannot say it often enough, the issue of missing persons affects a very large number of countries.

This room is therefore inhabited by much tension, frustration and pain, but also by great hope. The aim is to manage as best as possible, during these meetings, the number and diversity of the participants and the reality of those tensions. I will therefore ask you strictly to respect the time allotted to each speaker and to abstain from making statements of a controversial nature from the political, racial, religious or ideological point of view. The Conference is no place to "settle accounts".

This will require each of us to display great discipline and control. I know that I am asking a lot. At stake, however, is the success of the Conference and its capacity to make a real impact, in the long term, in terms of resolving the painful issues it touches on. I know I can count on you.

### 3.7 Presentation of the ICRC Report by Ms Sophie Martin, Head of Project, *The Missing*, ICRC

TheMissing/Conf/02.2003/EN/15

THE MISSING

#### 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)

(ICRC/TheMissing/01.2003/EN-FR/10)

THE MISSING

#### The Missing

- ▶ *The Missing*: those persons whose families are without news of them and/or are reported missing on the basis of reliable information, owing to armed conflict or internal violence.

19.02.2003 2

THE MISSING

#### The families of the Missing

- ▶ Family : must be understood in their broadest sense.
- ▶ Families are to be considered as victims.
- ▶ Their right to know is to be upheld.
- ▶ Families and communities also need, when a crime has been committed, acknowledgment of the crime and perpetrators held accountable.

19.02.2003 3

THE MISSING

#### The right to know

- ▶ Art. 32 of Additional Protocol I.
- ▶ Should be extended in all situations.
- ▶ The violation of the right to information should constitute violation of the right to family life.
- ▶ The systematic and deliberate deprivation of the right to information should be considered as cruel or inhuman treatment.

19.02.2003 4

THE MISSING

#### Responsibilities

- ▶ Concerned States bear the primary responsibility for prevention and for clarification of the fate of persons unaccounted for.
- ▶ Armed groups also bear a responsibility based on treaty and customary law.
- ▶ Humanitarian and human rights organizations promote awareness, give support and act as facilitators.

19.02.2003 5

THE MISSING

#### Prevention

- ▶ Ratifying or adhering to existing international treaties.
- ▶ Implementing the treaties' provisions into domestic law.
- ▶ Teaching the rules contained in these treaties.
- ▶ Enforcing and respecting the treaties' provisions.

19.02.2003 6

THE MISSING  
19.02.2003

### Prevention

#### Armed forces / armed groups

- ▶ Identification means that include, as a minimum, ID discs.
- ▶ Communication between members of armed forces / groups and their families.
- ▶ Strict chain of command.
- ▶ Respect of persons not / no longer directly participating in hostilities.
- ▶ Adequate management of the dead.

19.02.2003 7

THE MISSING  
19.02.2003

### Prevention

#### The right to family news

- ▶ The implementation of the right to family news is essential to prevent people from becoming missing.
- ▶ The violation of the right to family news should be considered as violation of the right to family life.
- ▶ The systematic and deliberate deprivation of the right to family news should be considered as cruel or inhuman treatment.

19.02.2003 8

THE MISSING  
19.02.2003

### Prevention

#### Practical measures

- ▶ Establishing control through a strict chain of command within armed and security forces and armed groups.
- ▶ Making easily available personal identification documents to all vulnerable persons.
- ▶ Issuing domestic regulations governing deprivation of liberty, which meet internationally recognized standards.

19.02.2003 9

THE MISSING  
19.02.2003

### Prevention

#### Access to vulnerable persons

Ensuring in all circumstances:

- ▶ access to the civilian population by neutral, impartial humanitarian organizations;
- ▶ regular visits by the ICRC and/or other neutral, impartial institutions to persons deprived of their liberty.

19.02.2003 10

THE MISSING  
19.02.2003

### Mechanisms

- ▶ Authorities have the duty to investigate.
- ▶ Multiple mechanisms are needed to cover the entire needs of families.
- ▶ Mechanisms must be independent.
- ▶ Information collected during criminal investigations that shed light on the fate of persons unaccounted for should be provided to the concerned families.

19.02.2003 11

THE MISSING  
19.02.2003

### Information management

- ▶ Compilation of comprehensive files on an impartial basis.
- ▶ Coordination and sharing of objectives, working methods and processing procedure between organizations are essential.
- ▶ The centralization of information that may serve to ascertain the fate of missing persons is also essential.

19.02.2003 12

THE MISSING  
19.02.2003

### Information management and data protection

- ▶ The legal rules governing the protection of personal data (which include medical and genetic information) must be respected.
- ▶ Information should be shared without endangering victims, the person collecting the information or the sources of the information.

19.02.2003 13

THE MISSING  
19.02.2003

### Information on the dead

- ▶ Information on the dead = reduction of the number of missing.
- ▶ Authorities bear the primary responsibility. Humanitarian actors must address the problem from the beginning of armed conflict or internal violence.
- ▶ The collection of information on the dead must be systematic.
- ▶ Non-specialists must be involved, trained and act accordingly.

19.02.2003 14

**THE MISSING**  
19.02.2003

### Respect for the dead

- ▶ Despoliation & desecration of the dead are crimes under international law.
- ▶ Intentionally mutilating the dead as part of a widespread and systematic policy should be an aggravated form of the crime.
- ▶ Obstructing, interfering with, or impeding the process of identification for the purpose of preventing identification of human remains should be repressed under domestic law.

15

**THE MISSING**  
19.02.2003

### Forensic specialists

- ▶ The role of forensic specialists must be recognized.
- ▶ There is a need for an adequate forensic framework, including guidelines, standards and protocols, defined, supervised & disseminated by an international body.
- ▶ This framework should recognize that informing families about the death of their relative is just as important as providing evidence for criminal investigations.

16

**THE MISSING**  
19.02.2003

### Conditions for forensic work

- ▶ A framework agreed upon by all actors involved, which includes:
  - ▶ relevant protocols and psychological support to families;
  - ▶ an identification process adapted to the context;
  - ▶ reliable and scientifically valid technologies;
  - ▶ appropriate means of associating communities and families in the whole process.

17

**THE MISSING**  
19.02.2003

### Families of missing persons

- ▶ Their specific needs must be recognized and be addressed as soon as possible.

18

**THE MISSING**  
19.02.2003

### Families of missing persons

- ▶ Assistance shall aim at self-sufficiency.
- ▶ Domestic legislation must include provisions on the legal situation of missing persons and on the legal consequences for their relatives.

19

**THE MISSING**  
19.02.2003

### Families of missing persons

- ▶ Particular attention must be paid to single heads of families and children whose parents are both missing.
- ▶ Psychological support shall be provided.
- ▶ Independent family network and associations should be encouraged.

20

**THE MISSING**  
19.02.2003

### Families and death

- ▶ Respect for the dead and for funerals held according to the local customs is essential for peace and social order.
- ▶ Respect for the dead and the mourning practices of all communities and individuals in all circumstances!
- ▶ Information on the death must be reliable to allow families to acknowledge the death of their relative and to mourn.
- ▶ Commemorations must be supported.

21

**THE MISSING**  
19.02.2003

### Outcome of the Conference

- ▶ The issue of the Missing and their families must systematically be put on the international agenda.
- ▶ The ICRC Summary Report must be widely disseminated and its implementation encouraged.
- ▶ The adoption of final Observations and Recommendations shall be the pledge to achieve our common goal.

22





## 4. Panel: Families and their need to know the fate of their relatives

### 4.1 Panel Presentation

TheMissing/Conf/02.2003/EN/5

<b>Title</b>	<b>Families and their need to know the fate of their relatives</b>
<b>Objective</b>	Demonstration that families of missing persons are often confronted to specific problems associated with uncertainty regarding the fate of their relative, which need to be addressed.
<b>Content in short</b>	<p>The Panel will discuss two subjects; these are:</p> <ul style="list-style-type: none"> <li>• the psychological impact of the uncertainty about the fate of a missing relative and the related socioeconomic consequences.</li> <li>• the necessity for the families of missing persons to receive credible information on the death of their relatives in order to facilitate their mourning process and thus come to terms with their loss.</li> </ul>
<b>Reference document(s)</b>	<ul style="list-style-type: none"> <li>• "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)</li> <li>• "Mourning process and commemorations, Study - Report and recommendations, under the direction of Yvan Droz, doctor in ethnology, chargé de cours at Graduate Institute of Development Studies (IUED); with the collaboration of Sylvain Froidevaux, doctor in social sciences, under IUED mandate" (ICRC/TheMissing/10.2002/EN/7)</li> </ul>
<b>Chairman</b>	Mr Habib Nassar, Vice-President, Committee of Families of kidnapped and disappeared in Lebanon (Lebanon)
<b>Rapporteur</b>	Ms Asta Maria Zinbo, Director, Civil Society Initiatives, International Commission on Missing Persons (ICMP)
<b>Official speakers</b>	<p>Ms Margriet Blaauw, MD, Master in International Health, Virpi Lähteenmäki, Psychologist, Master in Human Rights, International Rehabilitation Council for Torture Victims</p> <p>Mr Yvan Droz, Doctor of Ethnology, associate professor at the Geneva Graduate Institute of Development Studies (IUED)</p> <p>Ms Ariane Tombet Caushaj, Deputy Head of Project, The Missing, ICRC</p>
<b>Date and place</b>	<b>CICG - 20.02.2003 - 13:00 - 15:00</b>

## 4.2 Official Speakers

### 4.2.1 Ms Ariane Tombet Caushaj, Deputy Head of Project, The Missing, ICRC

TheMissing/Conf/02.2003/EN/11

THE MISSING

**Specific problems faced by families of persons unaccounted for**

Recommendations and best practices

20.02.2003

THE MISSING

**Main problems faced by these families**

- ▶ Traumatic events in addition to uncertainty = more stress-related disorders
- ▶ Most missing persons are adult men: the breadwinner has been lost.
- ▶ Often women are not prepared for this role
- ▶ Families are often ostracized by their communities.
- ▶ No comprehensive legislation regarding the legal situation of the missing persons and so on the legal consequences for their families.

20.02.2003

THE MISSING

**Addressing the needs of families**

- ▶ Most fundamental need = information on the fate and whereabouts of the missing person.
- ▶ When crimes have been committed, families also need acknowledgment of the crime and perpetrators held accountable.
- ▶ In parallel to these needs, socio-economic, psychological and legal needs of the families must be addressed.

20.02.2003

THE MISSING

**Addressing the socio-economic, psychological and legal needs**

- ▶ Programs should be adapted to local circumstances.
- ▶ Programs should aim to promote social reconstruction.

20.02.2003

THE MISSING

**Addressing the socio-economic needs**

- ▶ Food, shelter and physical safety must take precedence.
- ▶ Special focus should be on single heads of families.
- ▶ Main objective = self sufficiency.
- ▶ Children need special protection.
- ▶ Awareness of the social consequences of the situation of the families of missing persons.

20.02.2003

THE MISSING

**Addressing the psychological needs**

- ▶ Should be planned to help families to adapt to their altered situation.
- ▶ Should be systematic in case of an exhumation and identification process, which include *ante mortem* data collection.
- ▶ Should be adapted to the cultural context and habits.
- ▶ Should be based on local healing systems.

20.02.2003

THE MISSING

### Addressing the legal needs

- ▶ Legal provisions should be included in domestic legislation regarding
  - » the legal situation of missing persons and
  - » the legal consequences for family members.
- ▶ It should include provisions on e.g.:
  - » civil status of spouse,
  - » guardianship and parental authority,
  - » administration of the missing person's estate.
- ▶ It should minimize the difference of treatment between missing civilians and soldiers.

20.02.2003

THE MISSING

### Family network and associations

- ▶ Can provide a forum for mutual support.
- ▶ Can raise the issue of their missing relatives on the political agenda.
- ▶ Should be created by local initiative only.
- ▶ Should not be politically manipulated.
- ▶ Should be supported without compromising their independence and self-sufficiency.

20.02.2003

THE MISSING

### Regarding families and death

- ▶ Prerequisite to mourning is the **BELIEF** in the death of the person concerned
- ▶ Authorities and organizations must
  - » ensure the authenticity of information on death;
  - » recognize the role of commemorations;
  - » recognize the role of collective funerals;
  - » publically recognize and affirm the existence of missing persons.

20.02.2003

#### 4.2.2 Ms Margriet Blaauw, MD, Master in International Health, International Rehabilitation Council for Torture Victims

TheMissing/Conf/02.2003/EN/19

Ms Chairperson, Ladies and Gentlemen,

The International Rehabilitation Council for Torture Victims promotes and supports the rehabilitation of torture victims and works for the prevention of torture worldwide. As in times of serious political repression, torture and forced disappearances<sup>1</sup> often go hand in hand, many of the rehabilitation centres the IRCT collaborates with, also offer support to family members of forced disappeared persons.

The problems that relatives of disappeared persons encounter can be overwhelming. First of all there are the concerns of the fate of the relatives. Where are they? Are they alive? Have they suffered? Are they still suffering? Have they been tortured? Am I doing enough?

When the fate of the missing person is uncertain, family members keep up their hopes to find him or her. And there are always reports of people who did find their loved-ones that keep these hopes alive. Worldwide many

---

<sup>1</sup> Definition of the 'forced disappearance of a person' according to Article 7 (Crimes against Humanity) of the Rome Statute of the International Criminal Court (17.07.1998):

"The arrest, detention or abduction of persons by, or with the authorisation, support or acquiescence of, a State or political organisation. Followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons"

relatives have been searching tirelessly year after year. Giving up the search, giving up the hope, and accepting that the disappeared relative might have died can give people the feeling that they are letting him or her down, and that by doing so they feel they are “killing” him or her.<sup>2 3</sup>

The absence of a family member can have serious economical consequences. Many disappeared persons are breadwinners and the families face a loss of income. When there is no official acknowledgement of the status of a missing person, the family might not receive the support that family members normally receive in case of death. The search for information can become an important part of their daily life, and for many people a ‘raison d’être’, and many of the families’ resources are spent to cover all the expenses.

Family members of disappeared persons may suffer from several psychological consequences as for example sleeping problems, anxiety, and feelings of guilt. Thoughts of the missing person may intrude all the time. This may affect their activities at home and at work.

In times of political violence or State repression families of disappeared often have to cope with a social loss, and they may live in an atmosphere of fear and isolation. From families in Latin America we have learned that neighbours, classmates and other community members tend to avoid them out of fear.

The lack of information, the lack of an official statement of death makes it hard to acknowledge that the person might not be coming back. In her book ‘Ambiguous Loss’<sup>4</sup> Pauline Boss describes how a wife of a pilot who is missing in action kept her missing husband psychologically present for emotional support and decision making. This had a negative influence on the functioning of her family. She never disciplined her unruly children but always said: “Wait until your dad comes home”.

The disappearance of a relative is a loss that cannot be mourned properly. Death rituals, like funerals, help individuals or groups to deal with loss and death, but when the whereabouts of a loved-one are uncertain a farewell ceremony normally does not take place. It can be especially problematic for the millions of the world’s refugees and Internally Displaced.

People to mourn the loss of disappeared relatives, as cultural beliefs and healing rituals that exist in their original culture might not be acceptable in the new society.

The disappearance of a family member can cause suffering years after the event. We have learned that people seek for psychological support many years after the disappearance of a relative. In Latin America some children of disappeared parents, started to have serious psychological problems when they reached the same age their parents had been at the time of their disappearance.

Only an official statement of the death of a relative can make it possible for family members to start a normal process of bereavement. The information has to be credible, coming from a credible source.

However, family members may not always accept an official statement. For example, two years ago the Chilean authorities released a list with the names of young men who had disappeared during the Pinochet regime. According to this list the young men had been killed and their dead bodies had been thrown in the river. During a session in support of their relatives, several parents did not believe the information and reacted angry: “They have been lying to us for almost 30 years, why should we believe them now?”

Special care should be taken as to how to reveal the truth, especially if there is evidence of suffering. Ideally, the family situation and the cultural, religious and social context should be carefully assessed before delivering information. Family members should be offered support before, during and after the disclosure. Giving concrete information of what has happened to a missing relative always creates a serious risk of re-traumatisation. Unfortunately circumstances are often far from ideal, and for many political and economical reasons it is not possible to provide adequate assistance.

Disclosure of the truth is also important to obtain justice and reconciliation after human rights violations. An official acknowledgement that a wrong was committed can be an important step to relieve the suffering. Unfortunately, seeking reparation is often associated with difficulties and can be a traumatic experience in itself. For the many families of disappeared people reparation is not a reality.<sup>5</sup> On the other hand though, some people argue that the pursuit of reparation is a positive process, irrespective of the outcome.<sup>6</sup>

---

<sup>2</sup> Boehnlein, J.K. Clinical relevance of grief and mourning among Cambodian refugees. Soc. Sci.Med. Vol. 25, No 7, pp 765-772, 1987

<sup>3</sup> Becker, Becker, D., Lira, E., Castillo, M.I., Gómez, E., Kovalskys, J. Therapy with Victims of Political Repression in Chile: The Challenge of Social Repatriation. Journal of Social Issues, Vol. 46, no 3, 1990, pp. 133-149

<sup>4</sup> Boss, Pauline. Ambiguous Loss. Learning to Live with Unresolved Grief. Harvard University Press. Cambridge, Massachusetts. London England, 1999, pg 13

<sup>5</sup> Cullinan, Sarah. Torture survivors’ perceptions of reparation, preliminary survey. The Redress Trust, 2001, page 55

<sup>6</sup> Carmichael, Mc Kay and Dishington. The need for REDRESS: why seek remedy? Reparation as rehabilitation. Torture, Vol. 6. No 1, 1996, pg 7-9

Impunity can have serious long-term social and psychological consequences. It can create a strong feeling of lack of control and powerlessness among individuals. It can change human relations, fear and mistrust between people.

To prevent future disappearances and to support families who are missing a loved-one we should learn from the past. We should listen to the experiences and needs of the people who have been searching for their relatives year after year, to the experiences and needs of the people who have created family support groups, and to the experiences and needs of the people who are challenging difficult circumstances in order to find the truth.

Thank you.

#### **4.2.3 Mr Yvan Droz, Doctor of Ethnology, Associate Professor at the Geneva Graduate Institute of Development Studies (IUED)**

**TheMissing/Conf/02.2003/EN/20**

##### **The need for families to know what happened to their loved ones**

Whether or not peace and social order can be maintained or restored depends on respect for the dead, compliance with the rites that are their due and the guarantee that mourning can take place without hindrance. Because of the multitude of practices that mourning involves, it is impossible to recommend only one kind of funeral rite. Certain things never vary, however, and they recall the essential points to bear in mind.

Death is always understood from the point of view of a specific culture. No matter how the corpses are dealt with, funeral rites follow a ritual that often defines the *post mortem* destiny of the dead. Hence their crucial importance. Non-performance poses a threat to the living, to the dead and to the relationship that may exist between them.

Although they follow a "cultural" matrix, funeral rituals vary widely from one group and one event to another. One culture may practice a broad variety of rituals. Familiarity with the customs of one group involves the risk that they will be stereotyped. Ethnographic knowledge therefore does not suffice; it must be associated with the immediate local reality.

Failure to respect prescribed funeral rites – something that happens all too often in conflict situations – is tantamount to "killing" the dead by denying them a hypothetical afterlife. Often, the dead become evil spirits that haunt the living.

Social practices are grounded in a representation of the world in which they find support, justification and meaning. Understanding funeral rites requires knowledge – even if only superficial – of the symbolic universe in which those rites are encased.

Funeral rites are not just a means of appeasing the dead and soothing the living, or of classifying or honouring the dead. They are rites of passage that "serve" to reproduce the group and to establish a new status, but that is not their only function. While it is true that they express the value system of a specific society or group and renew an entire symbolic world, they also represent the moment at which a set of social relations and networks is regenerated. They are the circumstance in which conflicts between families or groups break out and are sometimes resolved. In a situation of war, death can be used as a symbolic weapon, to provoke, humiliate and destroy the enemy.

Funerals classify individuals according to the type of death they suffered and the lives they led. Establishing the cause of death is crucial for the deceased, the family and the group as a whole. In general, posterity will remember the dead as they are depicted by the funeral rites, which can crown a life of fulfilment, honour a personal sacrifice for the nation, cast opprobrium on a thief, stir hatred for a murderer or a witch. Death is often a pivotal point in life.

Although funeral rites are extremely diverse, their meaning does not as a rule differ substantially from one religion to another. The idea is to accompany the dead, to bid them a final farewell, to show respect for those on the point of death and for their bodies, to enable them to move serenely on to the Beyond or to facilitate reincarnation. At the same time, the relatives mark the separation by starting to mourn, a process that will go through successive phases until everyday life is resumed. The circle of friends and relations, the next-of-kin, the community show their solidarity and gather round the deceased to reaffirm the group's ties and values. According to religious officials, the purpose of funeral rites and memorial services is to remind everyone that their presence on earth is passing, to underscore the primacy of spiritual over material concerns, and to recall everyone to their responsibilities as the members of a faith.

At the same time, funeral rites draw a line between the living and the dead. While all religions affirm that there is a bond between the two, the funeral rites sometimes reflect the determination to preserve the living from the danger represented by the bodies of the dead, as though death were in some way impure. Hence the

significance of how the body is laid out, the prohibitions imposed on the family, the requirement to incinerate or bury the body in a place set aside for that purpose. In addition, friends, relations and the clergy stand by those in mourning. They share their pain and remain with them during the mourning period, reiterating that physical death does not spell the absolute end. All religions hold that life is a victory over death.

Peace among the living and the dead therefore depends on well-conducted funerals. Knowing what happened to a missing person is a *sine qua non* for conducting funerals properly, because uncertainty about the person's fate is an impediment to mourning. Indeed, in cases of missing persons it is the relatives who must compensate for the lack of news and "decide" whether or not the person is dead, which is tantamount to killing the person symbolically. Then and only then can the funeral rites begin and fulfil their social and symbolic functions.

Covering up information on the fate of missing persons is an effective means of social destructuring. It maintains the families and social groups in a no man's land in which they are barred from resuming normal lives by their continued anxiety about what happened to their missing relatives and the quest for information on their fate. In addition, this situation is often perceived to be dangerous or even contagious: people in contact with death may draw death to their loved ones. Without a funeral, the families are stained, symbolically, by the uncertainty that surrounds the missing persons' fate. What happened to them?

### 4.3 Panel Report to the Plenary, by Ms Asta Maria Zinbo, Director, Civil Society Initiatives, International Commission on Missing persons (ICMP)

TheMissing/Conf/02.2003/EN/79

#### 1. Conclusions from the workshop:

There are some specific problems faced by families of persons unaccounted for.

- Unknown fate of relatives
- Relatives survived traumatic events themselves, resulting in stress-related disorders
- Most missing persons are male heads of household, and surviving women are often not prepared to assume this role;
- Families can often be ostracized by their communities due to fear (of reprisals);
- Lack of comprehensive legislation on the legal status of missing (property, social benefits, etc.)

In order to address the needs of families many steps need to be taken.

Information on the fate and whereabouts of the missing is the most fundamental need.

If crimes have been committed, families need acknowledgment of the crime and for the perpetrators to be held accountable.

In parallel to these needs, socio-economic, psychological and legal needs of the families must be addressed, including: programmes should be adapted to local circumstances and should aim to promote social reconstruction and reconciliation in the affected community. Food, shelter and physical safety must take precedence. Special focus should be given to single heads of families and unaccompanied children. The psychological consequences and required support was emphasized. Families should be helped to adapt psychologically to their altered situation by using local service providers and community support.

The legal needs too are central to the missing issue. Legal provisions should be included in domestic legislation regarding the legal status of missing persons and the legal consequences for family members. It should include provisions for, *inter alia* civil status of spouse and children; the administration of the missing persons estate and it should minimize the difference of treatment between missing civilians and soldiers.

Family Associations and Family networks play an important role, and provide collective support to family members, promote public recognition of the problem, and should be encouraged in their development.

Prof. Droz discussed the importance of the mourning and commemoration process for families sociologically and anthropologically. While there are multiple conceptions of death and funerary rituals for different groups, they are all rites that enable the relatives to mourn and define their status in society. Without being able to start the mourning process, they are unable to return to normal life. However, there is a risk of political manipulation, and expecting families to conduct funeral rites without knowing if relatives are dead is like symbolically killing the missing.

Dr. Blaauw - International Rehabilitation Council for torture victims, reviewed some of the main psychological impacts on families of the disappeared. They face overwhelming problems and questions: where are they? Are they alive? Are they suffering? And am I doing enough to find them? Relatives face economic problems, anxiety, guilt, and nightmares, and social problems based on ambiguous loss.

Families need credible information on the fate of their relatives, and the delivery of painful information should be done with appropriate care and support. Although the circumstances are rarely ideal, truth and some kind of closure are needed for reconciliation and justice.

## **2. Summary of the contributions from the floor**

The following points were emphasized in addition to the main substance of the report:

### **Information**

- The long period of time sometimes needed to address cases was emphasized. While some relatives might eventually give up searching after many years, others never will, such as the case of missing Germans from World War II or relatives in Latin America or Cambodia or elsewhere. Therefore all information and databases should be kept for at least three generations if not 'forever'.

### **Psychological Support**

- While there is often an emphasis on trauma and mental health problems of relatives of the disappeared, it should also be stressed that many times these are normal reactions to abnormal circumstances. Family members should not be stigmatized as mentally ill, and community based support should be provided as needed – whether by family associations, community groups, churches, or trained psychologists to address chronic disorders and PTSD. Issues of how to better reach family members were discussed. Support should be directed to individuals, groups, and whole communities.
- The special needs of women and children were emphasized.
- Basic subsistence needs can compete for the need for psychological support in poor countries.

### **Impact on Society**

- Direct family members are not the only ones to suffer. The consequences are felt throughout whole communities and by those closely involved in the circumstances such as veterans, who can express equal amounts of anger and guilt as relatives.
- It is an illusion that everything will go back to normal even if credible information is found. Lives of the relatives of the disappeared are forever changed. The problems they encounter are often passed on from generation to generation.
- Justice will always be of concern to families and the active participation of families in the search for truth and justice can be therapeutic.
- Fear remains for some family associations to speak out publicly due to fear of reprisals from the authorities and/or the perpetrators who might harm those who are detained.

### **Governments**

- National governments should develop institutional approaches to addressing this issue, and can be advised to set up appropriate programs by external actors.





## 5. Panel: Members of armed forces and armed groups: identification and Information bureau

### 5.1 Panel Presentation

TheMissing/Conf/02.2003/EN/6

<b>Title</b>	<b>Members of armed forces and armed groups: identification and Information bureau</b>
<b>Objective</b>	Demonstration of the importance of the identification means for the members of armed forces and armed groups and of the Information Bureau to prevent persons from becoming unaccounted for.
<b>Content in short</b>	<p>The Panel will discuss two subjects. These are:</p> <ul style="list-style-type: none"> <li>• the identification means and, in particular, the identification discs as a minimum : the provision, the use and the respect of identification discs.</li> <li>• the Information Bureau : in situation of armed conflict or internal violence, the collection, the processing and the transmission of information.</li> </ul>
<b>Reference document(s)</b>	"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)
<b>Chairman</b>	Mr Titus K. Githiora, Brigadier General, Chief of Legal Services, Ministry of Defense, Department of Defence (Kenya)
<b>Rapporteur</b>	Mr Colin Nobbs, Lieutenant Colonel, UK Army, Chief G1, NATO, Headquarters Allied Command Europe Rapid Reaction Corps (HQ ARRC)
<b>Official speakers</b>	<p>Ms Barbara Cooper, Deputy Director, Service Personnel Policy (Welfare and Families), Ministry of Defence (United Kingdom of Great Britain and Northern Ireland (the))</p> <p>Ms Visaka Dissanayake, Doctor, Project Officer, Rana Viru Seva Authority (RVSA) (Sri Lanka)</p> <p>Mr Tetsuo Itani, Adviser to the Armed Forces, Unit for Relations with Armed and Security Forces, International Committee of the Red Cross</p>
<b>Date and place</b>	<b>CICG - 20.02.2003 - 15:30 - 17:30</b>

## 5.2 Official Speakers

### 5.2.1 Mr Tetsuo Itani, Adviser to the Armed Forces, Unit for Relations with Armed and Security Forces, ICRC

TheMissing/Conf/02.2003/EN/10

THE MISSING  
20.02.2003

**The Missing and members of armed forces and armed groups**

**Recommendations and best practices**

20.02.2003

THE MISSING  
20.02.2003

**Target groups**

- ▶ Members of armed forces and armed groups.
- ▶ Persons accompanying the armed forces / armed groups, e.g. war correspondents.
- ▶ Members of the armed forces and others serving in peace support operations.

20.02.2003

THE MISSING  
20.02.2003

**Preconditions for the implementation of best practices**

- ▶ Respect of obligations under international humanitarian law, human rights law and customary law by all concerned.
- ▶ Political willingness.
- ▶ Adequate resources.
- ▶ Training.

20.02.2003

THE MISSING  
20.02.2003

**Main prevention measures**

- ▶ Identification means.
- ▶ Family news.
- ▶ Management of the dead.
- ▶ Information Bureau and Grave Registration Service.
- ▶ Main rules of combat to prevent persons from becoming missing.

20.02.2003

THE MISSING  
20.02.2003

**Identification means for all**

- ▶ Key measure for prevention.
- ▶ Should include personal records, identity cards and identity discs.
- ▶ Identity discs = the only means which is simple, secure and survivable.
- ▶ Identity discs = the minimum for all
  - » Simple and cheap to produce.
  - » Requires training and supervision in use.
  - » To be promoted, when necessary supported, through military cooperation.

20.02.2003

THE MISSING  
20.02.2003

**Family news**

- ▶ The implementation of the right to correspond with relatives
  - » contributes to the efficiency of armed forces / armed groups and
  - » prevents, even indirectly, persons from becoming missing for their families.
- ▶ A mail system for personal contact between members of armed forces / armed groups and their relatives must be systematically introduced.
- ▶ RC family news network can be at disposal as a complementary means.

20.02.2003

**Management of the dead**

- ▶ The management of the dead, without adverse distinction, contributes directly to prevent persons from becoming missing.
- ▶ SOPs and training modules regarding the management of exhumation, temporary burial, transportation, storage and repatriation of remains by non-specialists must be implemented.

20.02.2003

**Information Bureau and Grave Registration Service**

- ▶ Management of information, without distinction, on victims of armed conflict or internal violence is essential to prevent persons from becoming missing.
- ▶ Information Bureau and Grave Registration Service fulfill this function.
- ▶ Must be planned and organized in peace time, at the latest upon outbreak of an armed conflict.
- ▶ Must collect, centralize and transmit without delay all information on the wounded, dead and captured to the concerned families, whenever necessary via a neutral intermediary (CTA).

20.02.2003

**Two main rules of combat to be respected to prevent persons from becoming missing**

- ▶ Distinction to be implemented between those participating and those not or no longer participating directly in hostilities and between civilian objects and military objectives.
- ▶ All sick, wounded and all persons deprived of their liberty must at all times be treated humanely without any adverse distinction founded on race, religion or faith, sex, birth or wealth, or any other similar criteria.

20.02.2003

**5.2.2 Ms Barbara Cooper, Deputy Director, Service Personnel Policy (Welfare and Families), Ministry of Defence (United Kingdom of Great Britain and Northern Ireland (the))**

TheMissing/Conf/02.2003/EN/21

**The United Kingdom Prisoner of War Information Bureau (PWIB)**

**INTRODUCTION**

1. Article 122 of the Third Convention places a duty on all parties in a conflict to open an Official Information Bureau for Prisoners of War who are in its power. In the UK this task rests with the Prisoner of War Information Bureau (PWIB) which is located in the Service Personnel Policy Directorate of the Ministry of Defence.

**ROLE**

2. The role of the UK PWIB is to act as the UK focal point for all enquires on PW and other persons covered by the 1949 Geneva Conventions. In order to perform its role, the PWIB will establish a database on both UK personnel captured or interned by the enemy, and all enemy personnel killed, buried, captured or interned by UK forces. The PWIB maintains close links with the International Committee of the Red Cross (ICRC) in Geneva on all matters relating to such personnel. The PWIB will also initiate tracing action with the Central Tracing Agency of the ICRC for all missing UK personnel. Finally the PWIB will retain and interrogate its database, after the cessation of hostilities, in order to respond to enquiries from previous conflicts.

### RESPONSIBILITIES

3. In the past the UK approach has been to create a PWIB in response to a crisis. Recently we have concluded that we should permanently establish a core capability, so as to retain corporate knowledge and avoid having to relearn the lessons of our predecessors. Providing full time staff for this task was not a realistic option so all of the team members (a mix of Military personnel and Civil Servants) have membership of the PWIB as secondary duties. The team is led by a Military Officer of Lieutenant Colonel rank who is responsible for the efficient running of the Cell and he is supported by a military deputy and Civil servant Office Manager. Once activated day to day control is exercised by the Office Manager supported by a team of clerical staff. Recognising that, in the event of a major conflict, the workload could be considerable the Office Manager has a list of potential augmentees who can be called upon to support the cell if required.

### TRAINING

4. The PWIB staff have all received training for the task and regular continuation training is carried out. In addition to a general introduction to the duties and responsibilities imposed by the Geneva Conventions the staff have been trained on the computer system used to track PW, watched UK forces practise PW handling procedures and will, hopefully, carry out an exercise run in conjunction with the Tracing Agency of the ICRC in early 2003, designed to trial the day to day running of the bureau and to test the passage of information. We have established close links with the British Red Cross who have provided invaluable advice and guidance in setting up the PWIB; should the Cell be activated we have an agreement that staff from the British Red cross will join the PWIB, at least for the first few weeks, to provide on the job training and assist in the smooth running of the organisation.

### COMMUNICATIONS

5. On activation the Office Manager establishes communications with the following organisations:

- a. The ICRC.
- b. The Foreign and Commonwealth Office (FCO).
- c. The Home Office (Immigration and Prison Service).
- d. The relevant MOD Directorates and Branches.
- e. The Operational Headquarters
- f. The British Red Cross.

6. The key function of the PWIB is the exchange of information. All Prisoners captured in the field are tagged and recorded by the capturing unit before being passed to a PW Handling Unit. At the Handling Unit, in addition to the paper records already held, details of individual PW are entered on to a database. Once every 24 hours the database is forwarded to the PWIB in London. The database can be passed as a data file over military communications, hand couriered on disk or printed out and sent as a paper record. Once the information arrives in the PWIB the master database is updated and relevant details are passed to Geneva. Communication with Geneva can be by Internet, Fax or through national links to the UK Mission in Geneva. In order to achieve this the PWIB is equipped with Internet linked computers, a Fax Machine, Disc fax Machine and telephones.

### ACTIVATION

7. Once activated the PWIB serves as the single UK repository for information on persons protected under the Geneva Conventions and will provide such information to the ICRC and all other entitled parties. The PWIB collects and maintains information concerning the following:

- a. All enemy personnel killed, buried or captured by UK forces, including the location of the event.
- b. All enemy personnel in the custody of the UK authorities.
- c. Regular information regarding the state of health of all sick or wounded PW in custody of the UK authorities.
- d. Details concerning transfers, releases, repatriations, escapes, and admissions to hospital and deaths of PW in UK custody.

8. The PWIB will ensure that this information is forwarded immediately through the ICRC or Protecting Power to the nations concerned by the most rapid means.

9. The PWIB will initiate tracing action with the Central tracing Agency of the ICRC for all missing UK forces and personnel.

10. The PWIB will ensure that personnel information required under the Conventions is obtained from enemy PW on a voluntary basis and that it is passed to the ICRC within the shortest possible period. The Bureau will furnish two lists:

- a. The first list contains the details of all those captured. This information is for internal ICRC use only and is designed to assist the ICRC in carrying out its responsibilities.
- b. The second list contains only the details of those captured personnel who have agreed for their status to be disclosed. This list may be past to the Protecting Power either directly or via the ICRC.

11. The PWIB also carries out the following tasks:
  - a. Facilitate the exchange of correspondence between protected persons (with the ICRC).
  - b. Reply to all requests for information.
  - c. Act as the UK liaison point within the ICRC.
  - d. Perform all other duties required of the National Bureau by the 1949 Geneva Conventions.

#### LESSONS LEARNED

12. In setting up the PWIB we have identified a number of key lessons that may be of benefit to others facing the same task:
  - a. The importance of liaison. Early contact with the Tracing Agency and the British Red Cross proved invaluable and we are indebted to them for their help and support.
  - b. The requirement for effective information management and robust communications.
  - c. The importance of training the Staff of the PWIB.

#### CONCLUSION

13. Exchanging information on PW is an important responsibility for all parties in a conflict. Reducing uncertainty about missing personnel is an essential humanitarian task and an effective Information bureau has an important role to play in achieving this aim.

### **5.2.3 Ms Visaka Dissanayake, Doctor, Project Officer, Rana Viru Seva Authority (RVSA) (Sri Lanka)**

**TheMissing/Conf/02.2003/EN/22**

#### Identification Discs

##### **Introduction**

Sri Lanka has experienced a secessionist war in the Northeast of the country for a period of 19 years. In December 2001, a cease-fire was signed between the Government of Sri Lanka and the Liberation Tigers of Tamil Ealam, as a prelude to a negotiated settlement between the two groups. The cease-fire has been successfully upheld for a period of one year and several rounds of direct peace talks have taken place between the two warring parties with the facilitation of the Norwegian Government. At present, the prospect for peace is stronger than ever before.

During the conflict period, a large number of combatants were lost on both sides of the divide. The Sri Lanka Security Forces (SLSF) lost approximately 20,000 soldiers. When large numbers were killed in a single battle, recovery of the dead and identification of those recovered have been difficult.

##### **SOPs**

The SLSF adopt many procedures to facilitate identification of those killed in battle. Identification is based on physical identification marks, ID cards on person, service number written using indelible ink on different items of clothing and also identification discs. The identification disc (metal tag/dog tag) is worn around the neck (or waist) in duplicate and it has the combatants' service number, name, rank, regiment and blood group engraved on it. Its use is mandatory and this is checked frequently during general inspection. When identification is completed following death, one tag is detached by the SLSF for administrative procedures, and the other is kept on the body until it is handed over to the family.

Metal tags have been effective in the identification process – in one instance for example, seven dead persons were found in a battle area lost and regained after a period of time. Identification was possible, as the discs still remained attached to the decaying body. The bodies were cremated in the field and the ashes returned to the family thereafter.

However, there have also been many drawbacks in its use.

Tendency of the soldier to remove the tag frequently before bathing, sleeping etc. and reluctance of the soldier to wear it due to discomfort.

Dog tags have been known to be changed between bodies by the enemy to confuse identification. In addition, bodies have often been mutilated imposing further difficulties in identification.

Bodies when recovered are dismembered.

When identification is not possible, the Field Commander buries the 'unknown soldier' in the field. In such situations, the soldier is listed as missing in action. It is the right of the family to receive the body of their family member, and every measure should therefore be adopted for proper identification so that the body could be returned to the family without being listed as missing. Families of those missing in action suffer grave psychological problems due to an unnatural cyclic grieving process of hope and despair. All measures should be taken to prevent such suffering. Nearly 3,500 SLSF are listed as missing in action in the present conflict.

### **Recommendations**

Wearing of identification discs should be made mandatory **at all times** and the quality of the material improved to prevent discomfort. The disc should be worn in two places i.e. around neck and waist for example.

The dead should all be photographed or video pictures taken before cremation in the field, for future identification purposes.

The use of other identification procedures in addition to the present procedures using finger print/ DNA/ dental records where records are taken before combatant is commissioned to battle areas.

In October 2000, Her Excellency the President of Sri Lanka, the Commander in Chief issued a directive prohibiting cremations in the field and requiring still and video filming of all bodies in full length, before internment – for possible identification later.

### **Conclusions**

It is abundantly clear that there is a great need to correctly identify those killed in battle. In view of this fact, it is strongly recommended that all countries and armed groups make every effort to follow the above recommendations to help in the identification of persons killed in battle.

## **5.3 Panel Report to the Plenary, by Mr Colin Nobbs, Lieutenant Colonel, UK Army, Chief G1, NATO, Headquarters Allied Command Europe Rapid Reaction Corps (HQ ARRC)**

### **TheMissing/Conf/02.2003/EN/80**

The two main topics for debate were:

- the importance of means of identification such as identity discs
- the setting up of an Information Bureau to collect, process and transmit information thus preventing people from becoming unaccounted for

**The first presentation was given by Ms Barbara Cooper, Deputy Director, Service Personnel Policy (Welfare and Families), UK Ministry of Defence.**

Article 122 of the Third Geneva Convention stipulated that all parties in a conflict open an Official Information Bureau for POWs who are in its power. When activated, the UK Prisoner of War Information Bureau (PWIB) will:

- establish a database on both UK personnel captured or interned by the enemy, and all enemy personnel killed, buried, captured or interned by UK forces
- maintain links with the ICRC in Geneva
- initiate tracing action with Central Tracing Agency of the ICRC for all missing UK personnel

All PWIB staff have received training and further training is carried out regularly. The PWIB has established close links with the British Red Cross (BRC) which provided invaluable advice and guidance, and should the cell be activated, there is an agreement that BRC staff will join the PWIB for the first few weeks to ensure its smooth running. In setting up the cell a number of lessons have been learned:

- the importance of liaison. Early contact with the BRC and the Central Tracing agency were invaluable
- the need for effective information management and robust communications
- the importance of training for staff of the PWIB

The PWIB is only activated when the UK enters an international armed conflict. In peace time, including soldiers involved in peacekeeping operations, there is another system called the Casualty and Compassionate Reporting System.

**The second speaker was Dr Visaka Dissanayake, Coordinator of Psychosocial Projects, Rana Viru Seva Authority (RVSA), a governmental body dealing with the psychosocial needs of servicemen and their families, Sri Lanka.**

The Sri Lanka Security Forces (SLSF) use identification discs which are worn round the neck or waist, in duplicate, with the combatant's service number, name, rank, regiment and blood group engraved on it. When identification is completed following death, one tag is detached by the SLSF for administrative procedures and the other is kept on the body until it is handed over to the family.

There are, however, drawbacks:

- soldiers tend to remove tags before sleeping, bathing, etc, and forget to put them on again
- tags are removed because they cause discomfort
- tags have been known to be changed between bodies by the enemy to confuse identification
- bodies are sometimes dismembered

Therefore the RVSA recommends that:

- wearing tags be mandatory at all times
- the quality of the material be improved to avoid discomfort
- the disc be worn in two different places on the body
- the dead be photographed or video footage taken before cremation in the field for future identification purposes
- finger prints and dental records taken before the combatant is commissioned to battle areas be used as further identification methods

**The third presentation was given by Mr Tetsuo Itani, Adviser to the Armed and Security Forces, Unit for Relations with Armed and Security Forces, ICRC.**

The recommendations of this working group are targeted at:

- members of armed forces or armed groups
- people accompanying the armed forces or armed group such as religious and medical personnel or war correspondents
- members of the armed force and others serving in peace-support operations which bring their own dangers

The working group sought to establish best practices and minimum standards regarding four main points:

- the means of identifying the members of armed forces or armed groups
- the exchange of family news between members of armed forces or armed groups and their relatives
- the management of human remains on the battlefield
- an Information Bureau and Grave Registration Service
- the main rules that must be respected to prevent the occurrence of missing persons or unidentifiable conflict victims

The preconditions for the implementation of best practices are:

- respect of obligation under international humanitarian law, human rights law and customary law by all concerned
- political will
- adequate resources
- training

#### Identification

Identification is the key prevention measure. All armed forces and armed groups must provide members with means of identification that include:

- a) personal records (held centrally)
- b) identity cards
- c) identity discs as the absolute minimum. They are simple and cheap to produce and survive the rigours of war, but require training and supervision in use. They are to be promoted for everyone including non-State armed groups, and supported through military cooperation.

### Exchange of family news

Each party to a conflict must implement a mail system for personal contact between the members of armed forces or armed groups and their relatives. The Red Cross family news network can be at disposal as a complementary means.

The implementation of the right to correspond with relatives contributes to the efficiency of armed forces and armed groups and prevents, even indirectly, persons from becoming missing for their families.

### Information Bureau

Management of information, without distinction, on victims of armed conflict or internal violence is essential to prevent persons from becoming missing. The Information Bureau and grave Registration Service fulfil this function. Each party to the armed conflict must establish an Information Bureau to centralize all information and provide this information to the appropriate authorities or the family via a neutral intermediary (the ICRC Central Tracing Agency). It must be planned and organized in peace time and at the latest upon the outbreak of an armed conflict.

### Management of human remains

The management of the dead, without adverse distinction, contributes directly to prevent people from becoming missing. Standard Operating Procedures and training modules regarding the management of exhumation, temporary burial, transportation, storage and repatriation of remains by non-specialists must be implemented.

### Main rules to be respected in order to prevent the occurrence of missing persons: principles to be translated into Standard Operating Procedures

In armed conflict, a clear distinction must be made between those participating and those *not* participating directly in the hostilities and between civilian objects and military objectives.

All sick, wounded and all people deprived of their freedom must at all times be treated humanely without any adverse distinction founded on race, religion or faith, sex, birth or wealth, or other similar criteria.

### **Comments and questions from the floor:**

SRI LANKA - Parents of servicemen missing in action. The participant's son went missing four years ago. He was not wearing, nor had ever worn, an identity disc. The discs are only of use if *both* sides wear them and are willing exchange information. The group of parents in Sri Lanka produced a booklet in three languages for both the government forces and the LTTE to inform them of the importance of the discs. Both sides now wear them as standard procedure. A lack of means cannot be used as excuse for not enforcing the use of the tags as they cost much less than the weapons procured by the armed forces and groups. It is a question of will.

One participant underlined the need to inform civilians not to remove the tags if they come across bodies as, once taken away, they become useless. Another said that his son is missing even though he was wearing a disc which makes the main issue the lack of respect of IHL by the opposing party. All parties to a conflict need to abide by IHL and respect the system if it is to work.

There was strong support for the opinion that the checklist and procedures on how to deal with human remains in the field outlined on pages 10 and 11 of the report on the May workshop be integrated into standard military training and operating procedures. It was also noted that the procedures for dealing with human remains did not always take into account religious or cultural sensitivities or the wishes of the family.

### **In conclusion:**

There was encouraging support for the Panel's report and many of the participants intend to refer their country's government and Ministry of Defence to its recommendations.

The main challenge is with non-State actors and how to negotiate with them without endangering the life of the delegate. Furthermore, many are unwilling to negotiate and even if they are, the host government is often against the contact as it lends credibility and legitimacy to the rebel group. On the other hand, those non-State actors seeking legitimacy, have a vested interest in learning more about and respecting the rules of IHL.



The other issue raised was that of child soldiers. Getting them to wear identity discs, gives them a certain amount of legitimacy as combatants. Of course, the recruitment of child soldiers can never be condoned and the Rome Statute of the International Criminal Court specifically criminalizes such a phenomenon.

It is not just the responsibility of the military to deal with the issues of missing persons, but all government departments, NGOs and international organizations. Everyone must work together to heighten awareness of the problem and ensure the implementation of IHL.

The ICRC is the custodian of IHL not its enforcer. The ICRC reminds all parties of their obligations under IHL and customary law but has no means of forcing them to comply. It is therefore the job of the international community to put pressure on those parties which do not conform.



## 6. Panel: Collection, exhumation and identification of human remains

### 6.1 Panel Presentation

TheMissing/Conf/02.2003/EN/7

<b>Title</b>	<b>Collection, exhumation and identification of human remains</b>
<b>Objective</b>	Demonstration of the importance of a standard framework for action in relation to collection, exhumation and identification of human remains.
<b>Content in short</b>	<p>The Panel will discuss three subjects taking into account expertise available, professional standards, and the constraints. These are:</p> <ul style="list-style-type: none"> <li>• an autopsy protocol;</li> <li>• identification of human remains;</li> <li>• involvement of the community and families in exhumation of human remains</li> </ul>
<b>Reference document(s)</b>	"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/09.2002/EN/3)
<b>Chairman</b>	Mr Eric Stover, Director, Professor, Human Rights Center, University of California (United States of America (the))
<b>Rapporteur</b>	Mr Roberto Ricci, Policy Planning and Methodology Team, Human Rights Officer, Office of the High Commissioner for Human Rights, United Nations
<b>Official speakers</b>	<p>Mr Djordje Alempijevic, Doctor, Forensic pathologist, Institute of Forensic Medicine (Serbia and Montenegro)</p> <p>Mr Robin Coupland, Health Coordinator, Assistance Division &amp; Legal Division, ICRC</p> <p>Mr Luis Fondebrider, Member, Argentine Forensic Anthropology Team (EAAF) (Argentina)</p> <p>Mr Markus Rothschild, Professor, German Society of Legal Medicine (Germany)</p>
<b>Date and place</b>	<b>CICG - 20.02.2003 - 13:00 - 15:00</b>

## 6.2 Official Speakers

### 6.2.1 Mr Robin Coupland, Doctor, Health Coordinator, Assistance Division & Legal Division, ICRC

TheMissing/Conf/02.2003/EN/9

THE MISSING

### *The Missing* and forensic sciences

A framework for action when ascertaining the fate of people unaccounted for as a result of armed conflict or internal violence

20.02.2003

THE MISSING

### What disciplines are involved in forensic sciences?

- ▶ Forensic pathologists
- ▶ Forensic anthropologists
- ▶ Forensic archeologists
- ▶ Forensic odontologists
- ▶ Forensic geneticists
- ▶ Forensic fingerprint experts
- ▶ Criminal investigators
- ▶ Mortuary technicians

20.02.2003

THE MISSING

### Constraints on professional practice

- ▶ Security
- ▶ Rapidly changing administrative / legal context
- ▶ Finances
- ▶ Trained personnel
- ▶ Equipment
- ▶ Lack of standards and best-practice guidelines

20.02.2003

THE MISSING

### The "professional" triad

20.02.2003

THE MISSING

### A framework for action

- ▶ Agreement between actors
- ▶ Assessment of the context (inc. security)
- ▶ Assessment of applicable law
- ▶ Action should start as soon as possible
- ▶ Locating and securing graves
- ▶ Protocols for exhumation, examination and identification of remains
- ▶ Collection of antemortem data and samples
- ▶ Legal protection of personal data, remains and samples

20.02.2003

THE MISSING

### Framework for action: *continued*

- ▶ Identification of competent mortuaries and laboratories
- ▶ Communication strategy to affected communities and families
- ▶ Strategy for issuing death certificates and returning remains to the families
- ▶ Psychological support for families
- ▶ Plan for burying or storing unidentified remains

20.02.2003

## 6.2.2 Mr Djordje Alempijevic, Doctor, Forensic Pathologist, Institute of Forensic Medicine (Serbia and Montenegro)

TheMissing/Conf/02.2003/EN/23

Regardless of clear and repeated banning of involuntary disappearances, both at international and national level, disappearances are still widely present throughout the world. Families of the persons who went missing as a result of international conflict or situation of internal violence are exposed to uncertainty until clarification of whereabouts of their missing relative. Since the 1980s, forensic skills have increasingly been used in the investigation of "disappearances", genocide and systematic killing of detainees in many parts of the world. During the past two decades a lot of experience has been accumulated based on numerous forensic investigations that were completed.

A definite way of clarifying the fate of a number of missing persons and to satisfy the right of the family to know the faith of their relatives, especially when there are indications that respective portion of the persons who were reported as a missing probably are dead, is to exhume all known burial sites, search for other possible locations of mortal remains disposition, and to examine mortal remains in making considerable efforts to identify them. Forensic investigation in the cases of "disappearances" linked to international armed conflict or situation of internal violence involve multiple tasks. Forensic expert teams engaged in exhumation of mortal remains and their examination, in particular where mass graves are involved, usually are of a multidisciplinary character.<sup>7</sup> The totality of the operation is it focused towards humanitarian goals and victim identification, or criminal investigation, or both, may be understand as collective effort of different sectors of specialized scientific knowledge (e.g. forensic pathology, forensic anthropology, forensic archeology, etc.). Thus expertise in forensic anthropology, dentistry, biology, and other involved specialities will sit alongside conventional medical disciplines such as forensic pathology.<sup>8</sup>

On many occasions investigative teams will work in international context, and their members sometimes will come from different countries although practice and standards in forensic medicine/pathology may greatly vary in different countries. Mortal remains examined by forensic pathologists and other members of forensic teams in the context of the missing are usually in advanced stages of post mortem changes, but presence of decomposition does not remove the need for a full autopsy. Creation of detailed working scheme and standards for operating procedures should be considered necessary to ensure that acceptable level of standard will be reached by forensic teams who are working in the context of the missing. Similar necessity for standardisation in forensic practice and harmonisation of medico-legal autopsy rules has been already recognized by the European Council of Legal Medicine (ECLM) in so-called domestic contexts.<sup>9</sup> On contrary, lack of the standardization and significant differences in investigative standards can even lead to insufficient examinations, diminishing the overall quality of work. Previously mentioned recommendation of the ECLM on the harmonisation of autopsy rules released in 1991 underlines establishing the cause of death and identity of the deceased as goals of medico-legal autopsies. Considered methods for the identification of deceased includes: visual identification, personal effects, physical characteristic, dental examination, anthropological examination, finger prints and genetic identification where appropriate, all of which must be carried out in a manner consistent with medical ethics.<sup>10</sup> An exhaustive list of protocols and recommendations for performing post mortem examinations applicable in both – domestic and the context of the missing are available. Appropriately trained and skilful forensic pathologists are aware of all techniques and procedures that might serve as a good base for identification of deceased. Adequate and detailed reporting and good quality of related documentation (photographs, X-ray, video, etc.) are as important as post-mortem examination itself. If not supported by full, detailed, comprehensive and objective autopsy report, as a permanent document, post-mortems might fail to be a valid base for identification.

---

<sup>7</sup> Rainio J: Independent forensic examination of victims of armed conflict: Investigation of Finnish forensic expert team in the Balkan area. Department of Forensic Medicine University of Helsinki – Academic dissertation. Helsinki 2002, p. 93.

<sup>8</sup> Background document on the proposed WMA statement on forensic investigations of the missing. Document MEC/Missing/Oct2002/1/Info - World Medical Association, 2002.

<sup>9</sup> Recommendation 1159 (1991) on the harmonisation of autopsy rules. The European Council of Legal Medicine, 1991.

<sup>10</sup> Recommendation No. R (99) 3 of the Committee of Ministers to Member States on the Harmonization of Medico-legal Autopsy Rules. Council of Europe, Committee of Ministers, 1999.

Forensic doctors have ethical obligation set down in general statements such as Hippocratic Oath, the Declaration of Tokyo, national codes of ethics, and many others.<sup>11</sup> During post-mortem examination, as outlined above from the point of standardization and harmonisation of medico-legal autopsy rules, both cause and manner of death determination, and victim identification must be ruled out. Moreover, observing and recording of all information potentially relevant to identification are ethical duty of forensic pathologists and other medically qualified experts involved in exhumation and examination of victims in the context of the missing.<sup>12</sup> Only if stay firmly bound to their professional and ethical duties medically qualified forensic specialists, namely forensic pathologists, will ensure that justice is done and that the best is done for families. In certain missions investigative teams may not be led by medically qualified experts but by other scientists. This might put medical professionals in difficult situation, as team leaders are not professionally bind to the existing codes of medical ethics. In such situations forensic pathologists and other medical personal must actively advocate that, even if the identification is not a goal of the investigation, considerable attention must be paid for detection and documenting of all relevant data for future identification. If there is no possibility to reach consensus with team leaders and other non-medically qualified team members, forensic pathologists and other medical personal should refuse to take part in those investigation that are ethically unacceptable. Otherwise, medical professionals should be referred to their national medical associations and where applicable to other professional associations, for not compliance to the existing ethical standards.

Recent experience gained in the former Yugoslavia may be used as an example of the investigation where two integral parts, namely determination of the cause and manner of death, and victim identification, were artificially separated. There were several references available stated explicitly that the main task of the UN Criminal Tribunal for the former Yugoslavia (ICTY) forensic teams coming from 14 countries to Kosovo during and after 1999 was to establish cause of death, while the identification has the less importance.<sup>13,14,15</sup> As reported, since 1999, some 4,600 bodies have been exhumed, of which only 2,100, or approximately 46%, have been identified.<sup>16</sup> Three years after the arrival of the international presence in Kosovo, the fates of some 3,700 persons, out of which some 1,600 still need to be located and examined, which disappeared during the conflict remain unknown. The problem of solving the fate of the missing remains, therefore, one of the most salient outstanding human rights concerns in Kosovo.<sup>17</sup> Undoubted is the fact that the in certain extent investigations done by the ICTY forensic teams failed to provide a good base for victims identification, contribute to the present situation characterized by high percentage of examined but still not identified mortal remains.

It is an established medical ethical principle that practitioners should open their practice to peer and stakeholder review. Forensic investigations are no different from other areas of practice, although the numbers of "peers" may be quite small. The establishment of review procedures must be based upon the concepts of transparency and openness. It is legally recognized that the families of the missing have a right for qualified representation during the investigation related to disappearances, including exhumation and examination of the victims. Encouraging both, professional review procedures and qualified representation of the families during the investigations will ensure their performance accordingly to the professional and ethic standards. Openness of the exhumation and examination for the professional reviewers should also deter separation of the cause and manner of death estimation and identification that, if happen could further traumatise families of the missing.

Finally, various contexts of disappearances in different countries, constantly growing international experience in numerous forensic investigations done both internationally and nationally, and continual renewal of technology that is used to support identification of the victims of international armed conflicts and situation of internal violence, requires continual follow-up and update in approach towards the solving fate of the missing persons.

---

<sup>11</sup> The forensic doctor. In: The Medical Profession & Human Rights. British Medical Association, ZED Books, London, 2001. p. 135.

<sup>12</sup> Outcome of the ICRC Workshop on Human remains: law, politics and ethics. ICRC/TheMissing/10.2002/EN/3, p. 10.

<sup>13</sup> UN war crimes prosecutor reports 2,108 bodies exhumed from gravesites in Kosovo. Available at: <http://www.un.org/peace/kosovo/news/kosovo2.htm#Anchor31>.

<sup>14</sup> Eriksson A, Hougen HP, Knudsen PT, Leith P, Lynnerup N, Sprogøe-Jakobsen S: Dansk-svenskt rättsmedicinskt arbete i Kosovo 1999, II. Rättsmedicinska fynd och erfarenheter. [Danish-Swedish forensic pathology teams in Kosovo 1999, II. Examination and identification of war crime victims. In Swedish]. Nordisk rettsmedisin 2000; 3: 74-79.

<sup>15</sup> Sprogøe-Jakobsen S, Eriksson A, Hougen HP, Knudsen PT, Leith P, Lynnerup N: Mobile autopsy teams in the investigation of war crimes in Kosovo 1999. J Forensic Sci 2001; 46: 1392-1396.

<sup>16</sup> Kosovo : the human rights situation and the fate of persons displaced from their homes. Council of Europe, CommDH(2002)9, 15.

<sup>17</sup> Missing Persons in Kosovo - Note by the Commissioner for Human Rights. Council of Europe, CommDH(2002)9.

### 6.2.3 Mr Markus Rothschild, Professor, German Society of Legal Medicine (Germany)

TheMissing/Conf/02.2003/EN/25

#### Identification of human remains: towards international standards

Before talking about the standards pertaining to concluding an identification, it may be worth recalling our definition of identification. That is: "Individualization by the attribution of birth name or other appropriate name to human remains." For those of us forensic specialists who participated in the ICRC workshops in 2002 on management, exhumation and identification of human remains there were a number of surprises awaiting us.

First, we found that we – even those who had worked in an international context - did not necessarily agree on the means by which an identification might be concluded. Some specialists emphasized matching of ante mortem data with post mortem findings as fast and reliable whilst others considered work based on laboratory techniques as more certain though more expensive and possibly more time-consuming. Second, we realized that simple visual identification is unreliable and even unacceptable in an international context and yet these same simple means are, in fact, the means by which most bodies are identified in our domestic practice. Third, there had been little consideration of how the means of concluding an identification may change according to context. It may be acceptable for a family to claim and bury the remains of a dead relative after a battle or massacre when it is not clear who the authorities are. By contrast, in a country at relative peace, identification of hundreds of skeletal remains in a mass grave must involve more exacting, scientific and expensive means.

In brief, we all recognize the standards that should be achieved by the application of our expertise in our own domestic practice. We had not really considered the constraints that might be put on our expertise in the many and varied contexts that the ICRC's Missing project attempts to address.

I would like briefly to outline some of the thoughts behind the recommendations for identification, which are summarized on pages 16 and 24 to 26 of the workshops reports on human remains and forensic sciences (ICRC/TheMissing/10.2002/EN/3). The preliminary step in reaching these recommendations was agreement that an identification can be concluded by one of three ways: the first is simple visual recognition of the remains; the second is by circumstantial means - that is by matching ante mortem data gathered from the family usually with findings of the post mortem examination; and lastly, by scientific means such as DNA analysis, matching of fingerprints or comparison of dental records. Each has its inherent advantages and disadvantages.

It soon became apparent to us that in any particular context, the most appropriate means of concluding an identification may involve a combination of these three basic means according to whether remains were whole bodies, multiple and numerous, skeletal, commingled or partial. Furthermore, which means of identification are appropriate may also change between contexts and, importantly, with time.

I am not going to enter into details of how different combination of means might translate into best practice but there are some important principles, which should be borne in mind for our discussion.

The decision of which means of identification are most appropriate in a given context depends largely on security, political, cultural, and legal considerations as well as on technical and scientific considerations. Future work will focus on how the different combinations of means will be adapted to contexts taking into account whether there is one or a few non-decomposed bodies; whether there are numerous non-decomposed bodies; whether there is one or a few skeletal remains; or, finally, whether there are numerous skeletal remains.

Work in this field should be able to accommodate new knowledge gained and techniques developed. Likewise such knowledge and techniques developed by those working in this context should be freely and publicly available to assist future work.

It is worth mentioning here that considerable discussion in the workshops revolved around when, where and what type of DNA analysis is appropriate in different contexts. Here also some general principles emerged.

DNA analysis may be the only means by which an identification can be concluded but it should not preclude identification by other means. The techniques used must be valid and reliable.

In relation to resource and logistics, an important distinction must be borne in mind between *only* taking samples for *later* DNA analysis and taking the samples *and* analyzing them at that time whether in or out of the country concerned.

Whilst identification need not be done by using DNA, samples can be taken from both remains and the reference population and stored without analysis; this ensures the possibility of DNA analysis at a future date. For example, where visual identification is used, considerations should be given to collecting a sample so giving the possibility of later DNA analysis should the need arise; however, even this apparently simple measure may be difficult in the field.

All DNA analysis done in contexts involving missing people must be done in laboratories which can assure: quality to accreditable standards; handling of remains, samples and data in agreement with established legal principles; research questions are subject to a process of ethical review. Samples collected but not analyzed are subject to the same legal protection vis-a-vis confidentiality as is given to analyzed samples.

To conclude, those of us who have participated in the process hope that in any particular context, all actors should now be able to agree on and implement means of concluding an identification that will bring maximum benefit to the affected communities and families.

#### **6.2.4 Mr Luis Fondebrider, Member, Argentine Forensic Anthropology Team (EAAF) (Argentina)**

**TheMissing/Conf/02.2003/EN/24**

##### **Involvement of the community and families in exhumation of remains**

The active participation of the community and the families of the victims, before and during the process of exhumation, is a crucial aspect of the scientific documentation of human rights violations, and also in the judicial, psychological and humanitarian context that must be contemplated in this kind of operation.

The experience of forensic scientists working in this kind of investigation in places such as Guatemala, Colombia, Peru, Argentina, The Philippines, former Yugoslavia, Ethiopia, Zimbabwe, Cyprus, and Kurdistan, where the most affected populations are indigenous and peasants and who live in the countryside far from the big cities, has shown that the process of exhumation is a fundamental step for the community and the families, not only in terms of their search for the truth and justice but also as a moment of cultural and religious transition in their life.

In most cases, the community and the families help the investigators in different aspects, such as providing logistics, security and fundamental *pre mortem* information (sometimes, the families travel long distances to be present during the exhumations and this is then the only moment for the investigator to gather the information).

At the same time, it is unusual for the community and the relatives to disturb the work being performed by the investigators; they tend to stand and watch from behind the line surrounding the graves without interfering in the process. This gives a more human perspective to the exhumation and allows the scientists to put their work in context.

According to relatives from different cultural, ethnic and religious contexts, in cases when the loved one was kidnapped and never seen again, or left the house and never returned, to see the body exhumed from a clandestine grave, for example 5, 10 or 20 years later, is a necessity. For years, they were left without any information about what happened, when, where and why; so it's the first time that they have something concrete about their loved ones.

During the Workshop "Human remains: management of remains and of information on the dead", this topic in particular was debated. The most important findings were:

- The families' direct participation in mechanisms, processes (such as exhumations) and information sharing should be dealt with in a sensitive and culturally appropriate manner.
- The families should be kept informed about the work and its limitations, the chances of success and the probability of finding the remains through exhumation and forensic identification, without raising false hopes including the chances of obtaining reparations and punishing those responsible.
- A holistic approach to the families should be applied, offering necessary legal, psychological, financial and medical services to meet the families' needs.
- The process of exhumation, should help relatives to accept reality. With the finding of the remains, the mourning process can start, the family can put an end to their uncertainty and settle the case from an administrative point of view.



### 6.3 Panel Report to the Plenary, by Mr Roberto Ricci, Policy Planning and Methodology Team, Human Rights Officer, Office of the United Nations High Commissioner for Human Rights

TheMissing/Conf/02.2003/EN/78

The Chairman introduced the session in the virtually full meeting room by mentioning three purposes for the involvement of forensic sciences in the collection, exhumation and examination of human remains.

1. To identify the remains
2. To establish the cause and manner of death and contribute to justice and accountability
3. To contribute to the historical record.

These purposes are vitally important to families and to justice. He then identified a number of areas he hoped the session would grapple with.

1. How to bring professionalism to the work. This encompassed elements of ethical practice, standards, protocols, best practices and the like.
2. The interaction between forensic processes and families.
3. The tension between the interests of justice and the interests of families, which do not always coincide.
4. The efforts needed to build local capacity.
5. Protection and security for forensic scientists and local human rights groups who are usually the ones who bring the relevant events to public attention.
6. The promise of DNA analysis and its limitations.
7. Funding of NGO's including family organisations and forensic efforts.

The members of the Panel then made their presentations. We were reminded that the ICRC's considerable preparatory work had been focussed on **action** to determine the fate of the missing and the **framework** necessary for that action to be effective. But first the constraints accompanying the context of the Missing were recalled. These constraints include those related to:

- security
- the administrative and legal environment
- finances
- personnel (numbers and suitability for the task)
- equipment
- relevant standards

Once these constraints have been recognised, a framework may be constructed. Elements of the framework include:

- agreements between the various actors
- assessments
- action to start as soon as possible
- graves to be located and secured
- ante mortem data and samples collected and secured
- human remains recovered and protected
- competent mortuaries and laboratories identified
- strategies devised for:
  - i. communicating with affected families and communities
  - ii. issuing death certificates and returning remains to families
  - iii. plans for burying and otherwise storing unidentified remains

These foundations were built upon by other Panel members who emphasized:

1. The fundamental importance for families to be able to actively participate before and during the exhumation process. This participation requires the forensic team to be sensitive to culture, to provide proper information and requires the broader process to recognise the needs of the family, be they medical needs, legal, psychological or financial needs.
2. The multi disciplinary nature of the forensic approach and within this the central role of a medically trained forensic pathologist accountable to the strong ethical framework regulating the practice of medicine.
3. The ethical imperative that an examination of human remains needs to accommodate both family needs and the needs of justice.
4. As with all branches of medicine and science, the work needs to be open to review by peers and stakeholders including families.

5. How challenging the context of the missing is to processes and standards taken for granted in a domestic context.
6. The experience of workers in the field and their results in advancing knowledge more generally should be freely and publicly available to assist further work.
7. Some of the broad parameters within which DNA analytical techniques might be employed in the context of the Missing.

Following the Panel presentations there was vigorous debate with engagement by a large number of participants. Some themes were recurring. These were:

(i) the many parts of the world where there are no resources, no laboratories or forensic services at all to deal with, in some cases, hundreds of thousands of missing and dead. Aspects of this discussed were:

- the need for greater recognition of the issue by the international community;
- the need for increased governmental will to begin addressing the issue;
- the need for local capacity building, in some cases of a substantial degree;
- several countries present made specific requests for assistance in helping to BEGIN addressing the issue of the missing.

(ii) the need for families to have trust in the process leading to identification of the remains. Aspects of this discussed were:

- the need for forensic processes to be able to be evaluated as meeting a standard
- the greater the involvement of the family, the greater the likelihood that trust would develop;
- the structure or framework of service provision should take the need for trust into account; this is fundamental among all actors: families, truth seeking mechanisms, whether they be tribunals or truth commissions, and forensic scientists.
- public education
- various functions, including the making of assessments of needs, were identified for an international forensic body

The discussion went overtime, because of the dynamic atmosphere developed as a result of families, experts, non governmental and governmental organisations discussing an issue which concerned them all but from different perspectives.

## 7. Panel: Mechanisms to solve issues on people unaccounted for

### 7.1 Panel Presentation

TheMissing/Conf/02.2003/EN/8

<b>Title</b>	<b>Mechanisms to solve issues on people unaccounted for</b>
<b>Objective</b>	Demonstration of the importance of multiple mechanisms (e.g. humanitarian, political, judicial, non-judicial) to cover the whole range of needs of missing persons, their families and communities
<b>Content in short</b>	<p>The Panel will discuss three subjects; these are:</p> <ul style="list-style-type: none"> <li>• possibilities and limits of main existing mechanisms and ways to enhance them;</li> <li>• tension and complementarity between judicial and non-judicial mechanisms;</li> <li>• main measures to be taken to ensure in all situations the setting up of the mechanisms needed to search for missing persons and to answer family and community needs.</li> </ul>
<b>Reference document(s)</b>	<ul style="list-style-type: none"> <li>• 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)</li> <li>• Overcoming the tensions between family needs and judicial procedures (ICRC/TheMissing/09.2002/EN/8)</li> <li>• Study on existing mechanisms to clarify the fate of people unaccounted for (ICRC/TheMissing/01.2003/EN/9)</li> </ul>
<b>Chairman</b>	Mr Javier Ciurlizza Contreras, Executive Secretary, Truth and Reconciliation Commission (Peru)
<b>Rapporteur</b>	Mr Javier Ciurlizza Contreras, Executive Secretary, Truth and Reconciliation Commission (Peru)
<b>Official speakers</b>	<p>Mr Richard Lyster, Commissioner, Truth and Reconciliation Commission South Africa (South Africa)</p> <p>Ms Vasuki Nesiah, Doctor, Senior Associate, International Center for Transitional Justice, New York (represented at the Conference by Mr Richard Lyster)</p> <p>Mr Marco Sassoli, Professor at the Faculty of Political Science and Law of the University of Quebec in Montreal (Canada)</p>
<b>Date and place</b>	<b>CICG - 20.02.2003 – 15:30 - 17:30</b>

## 7.2 Official Speakers

### 7.2.1 Mr Richard Lyster, Commissioner, Truth and Reconciliation Commission (South Africa)

TheMissing/Conf/02.2003/EN/26

#### **What Families of Missing Persons look for from a Mechanism Information, Accountability and acknowledgement**

1. **Mechanisms are driven by the needs of families of victims.** All family members have the right to know the fate of relatives missing because of armed conflict or internal violence, including their whereabouts or, if dead, the circumstances and cause of their deaths. The State authorities and armed groups always bear primary responsibility for preventing people from becoming unaccounted for and for ascertaining the fate of those who do. The community of States, international, regional and local governmental and non-governmental organizations and the ICRC provide support and act as facilitators.

2. Families of missing persons attach great emphasis on the need for **information** as well as the need for **accountability**. Mechanisms established to meet these needs can be judicial and/or non-judicial, the aim being to advance the cause of justice for the victims and their families, who want their loss to be taken into account. Thirdly, the families need and give priority to **acknowledgment**. In the cases of people who are missing as a result of criminal action or inaction by the State authorities or armed groups, the families often want acknowledgment of the missing person's dignity and intrinsic value, of the crime, of the State authorities' or armed groups' responsibility and of the steps that need to be taken to address the crime.

#### **A. General Principles regarding Mechanisms for clarifying the fate of missing persons.**

Most situations require the existence of multiple mechanisms (humanitarian, governmental, judicial, non-judicial), to cover the range of needs experienced by families and communities.

There is no universal mechanism - mechanisms should be oriented towards and adapted to the national context, should be independent and impartial (not donor driven), and should not be externally imposed.

Mechanisms handling the issue of missing persons should deal with the State authorities and armed groups.

The involvement of international organizations lends credibility to the process, even if it is national.

State reparations and support for victims / families should be part of the package.

Each mechanism should be composed in accordance with its aims and comprise competent people only.

Existing mechanisms for a given situation should coordinate with and consult each other to avoid duplication and contradictions in procedure.

Memoranda of understanding between mechanisms should be used to clarify how information is to be shared, how the caseload is to be divided in the event of large-scale disappearances where the regular justice system cannot handle all cases, and how to sort cases according to the seriousness of the crime and the rank of the perpetrator.

There should be no overarching institution so as to prevent bureaucratization.

**B. JUDICIAL MECHANISMS** in the context of this paper, refers to **routine** criminal proceedings, which vary widely from one legal and sociological context to another, but comprise what we generally understand to be the investigation of political crimes by state authorities, and the indictment, prosecution, conviction and punishment of those who have found to be perpetrators of those crimes. Judicial mechanisms are frequently seen as the classic model or means of providing the victims' families with an effective vehicle for holding the perpetrators **accountable** for their actions. Judicial mechanisms are also seen as a symbol of the State's **acknowledgment** of the violation and its direct or indirect culpability (or of the armed group). Most often, they also provide **information** to the families of victims, as to the fate of the missing person, and the whereabouts of the body.

**C. WEAKNESS OF JUDICIAL MECHANISMS** In many, or most countries in which the ICRC is actively involved with the issue of disappearances, a number of problems confront criminal justice systems:

- Often, states do often not have the political will to initiate such investigations.
- judicial systems frequently do not have the institutional capacity to meet the families' needs for accountability and acknowledgement, and are often inadequate in catering to the needs of families.
- Narrowly focused criminal trials are often unable to indicate patterns of abuse by a state institution or armed force.
- Victims testifying face victimization/bodily harm/death from accused perpetrators and their supporters.

Ultimately, judicial mechanisms are frequently unable to make a significant impact on the phenomenon of disappearances.

**D. STATE'S LIABILITY FOR MISSING PERSONS.** Nevertheless, the weaknesses or failure of a particular state's judicial mechanisms does not mean that there has to be sole reliance upon non-judicial mechanisms to deal with issues surrounding disappeared persons. The workshops recommended that significant work still needed to be done with individual states, as well as non-state actors, to ensure that they took steps to respect and ensure respect for international humanitarian law and to give effect to protected human rights, to establish a responsible command structure in their armed forces, to suppress violations of international humanitarian law and to establish an internal disciplinary system, and to spread knowledge of international humanitarian law and international human rights law. It was also recommended that the states should institute pervasive institutional reform to ensure that state institutions incorporate basic human rights principles, in order to limit and prevent the phenomenon of disappearances.

**E. NON- JUDICIAL MECHANISMS.** In some contexts, victims may not be able to turn to the courts, or the ordinary justice system may not be in a position to handle all cases. It is in that event that the need may arise for non-judicial mechanisms e.g. truth commissions, publicity campaigns etc. Accordingly, a range of non-judicial mechanisms operate in conjunction with judicial mechanisms, (or when the latter do not operate, as an alternate to judicial mechanisms). These non-judicial mechanisms comprise an open-ended category of mechanisms that incorporates a wide array of initiatives, such as: combinations of rewards, incentives, and threats to encourage cooperation from reluctant witnesses and perpetrators; special prosecutors, truth commissions, and other commissions of inquiry; investigation and reporting by national or international non-governmental human rights organizations; international fact-finding by the UN and regional bodies; public information campaigns about the missing, reparation programmes, whether symbolic or material, national or international; institutional reform, as well as indigenous forms of truth-seeking, justice and reconciliation.

**E1. Truth Commissions.** The workshop noted that in recent years there has been extensive use of investigative Commissions, particularly Truth Commissions, in circumstances where judicial mechanisms have not been willing or able to deal with the task of, among other things, uncovering information about missing people. It was noted that to be acceptable and effective, certain conditions should be fulfilled; e.g. for example:

A. they should work in accordance with standardized principles such as the *Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights* (the Paris Principles (A/RES/48/134 of 20 December 1993);

B. truth commission should have quasi judicial powers for investigations (e.g., the power to subpoena witnesses and information), but must meet the requirements of due process;

C. there should be a credible threat of prosecution or other sanctions

D. Amnesty should only be granted on the making of full public disclosure, certain crimes should not be capable of being amnestied, and there should be no concept of a blanket amnesty.

**E2. Tension and Complementarity between Judicial Mechanisms and Truth Commissions.** As stated above, traditional judicial mechanisms are widely regarded as the preferred model to be pursued. Survivors, their families and the society at large obtain significant satisfaction from the notion of a perpetrator being punished and imprisoned. Acknowledgement and accountability are served. Information is received. However, when non-judicial mechanisms are pursued, victims, survivors and society are deprived of the fundamental or elemental concept of justice being done, and being seen to be done. A fundamental example of the tension between judicial and non-judicial mechanisms is to be found in the description of a truth commission which is empowered to grant amnesty to perpetrators, on the making of a full disclosure of their crimes. In South Africa it was said that the Commission traded justice for the truth. Perpetrators who appeared before the Commission and confessed their actions, received complete civil and criminal amnesty. This led to widespread criticism of the Commission, but on the other hand it was conceded and appreciated that the confessions of perpetrators lead to a very extensive understanding of the criminal workings of the state, the identity of those making decisions as well as to the uncovering of information as to the whereabouts of disappeared people, including their hidden graves. There is accordingly, an extensive overlap in what traditional justice and truth commissions are able to provide. Like traditional judicial mechanisms, a properly empowered truth commission can supply information concerning the missing is provided, accountability is served in the sense that a particular person, or group of people, or institution, may be named as being responsible for the disappearance, and the loss or death is publicly acknowledged.

**E3. Complementarities and Empowerment.** Similarly, with other non-judicial mechanisms, such as investigation and reporting by national or international non-governmental human rights organizations, and international fact-finding by the UN and regional bodies, the three overriding principles of information, accountability and acknowledgement can often be served. Campaigns and investigations that are carefully and professionally run, frequently uncover information about missing persons, as well as the identity of the person or persons responsible for their disappearance. While there may not be immediate acknowledgement of the role and responsibility of the state players involved, pressure placed upon the state by those involved in the campaign or private investigation, often forces or shames the state's police/judicial mechanisms to take action against the perpetrators. In this sense there is both tension and complementarity between the two mechanisms. Similar results have been achieved with public information campaigns about the missing, leading to families acquiring significant information about the whereabouts, or the fate of family members, the identity of perpetrators, as well as being empowered by their participation in the campaign. This factor, which impacts very positively on the passivity of many families, cannot be overemphasized.

**E4. Reparation as a form of justice – complimenting judicial mechanisms.** Both judicial and non-judicial mechanisms will frequently be unable to provide families with the three aspects of their quest for justice that they traditionally seek – information, accountability and acknowledgment, or they may only be able to deliver one or two of these e.g. a criminal prosecution might result in the imprisonment of a perpetrator, but the whereabouts of the missing person may still not be ascertained, or a public information campaign may deliver up information as to a mass grave, but no further information about who was accountable. In these circumstances, a reparation programme, which is correctly to be viewed as a form of justice, might go some way to assisting the family to achieve a sense that a measure of justice has been achieved.

**F. The need for mechanisms to be complementary and coordinated**

The workshop noted the following;

1. To maximize effectiveness, the different mechanisms mentioned above need to co-operate, coordinate their work, share and exchange information and avoid duplication.
2. Mechanisms should constantly communicate and consult with all sectors of society.
3. They should systematically clarify their goals and working methods.
4. They should form partnerships with NGOs, which may play a crucial watchdog role, help catalyze victim / family organizations and help re-integrate the victims and facilitate society's acceptance of them.
5. They should nevertheless be careful not to boost NGOs artificially and not to expose them to danger, including by receiving information from them.

**7.2.2 Ms Vasuki Nesiah, Doctor, Senior Associate, International Center for Transitional Justice, New York**

TheMissing/Conf/02.2003/EN/27

**Overcoming tensions between family and judicial procedures**

Cases of the missing are devastating to the victims' families. However, the trauma that results from the absence of the loved one is often further exacerbated by the fact that the needs and priorities that arise from the situation are neglected or denied. This paper focuses on the three principal categories of family needs and priorities that have been identified by the ICRC: information, accountability, and acknowledgment. Each of these involves a complex array of interests and claims regarding handling cases of the missing.

Judicial mechanisms can be powerful avenues to address cases of the missing and are often seen as the paradigmatic modality for providing victims' families an effective route to holding the perpetrators accountable for their actions. They can be a symbol of the state's acknowledgment of the violation and its direct or indirect culpability. In providing a mode of official "truth-seeking," judicial mechanisms can help to expose and acknowledge the contexts within which violations occurred. Particularly when they call for compensation, institutional reform, etc., they are also powerful means of acknowledging the injury victims and their families have suffered.

However in some contexts, there is a disjuncture between the goals and methodologies of criminal justice systems, and the priorities of families of the missing. For instance, while criminal justice investigations are designed toward prosecutorial goals of identifying those who can be proven to be legally culpable, families of the missing may prefer that investigations focus on maximal information regarding their loved ones; families may seek greater control and access over such information than compatible with criminal justice procedures. Families of the missing may experience the procedural hurdles entailed in judicial findings as holding information and "acknowledgment" hostage to legal process. In some cases victims' families may experience judicial systems as alienated from victims and attuned to the needs of the law and legal victory rather than the needs of victims and their families.

In sum, while judicial mechanisms provide an important basis for addressing the goals of families of the missing, in many contexts addressing these goals may also warrant looking beyond criminal justice processes (including provisions for special prosecutors and other non-routine processes). In this article, "non-judicial mechanisms" is used as an open-ended category that incorporates a diverse array of initiatives under its umbrella, from truth commissions to human rights documentation projects to public monuments. Typically, non-judicial mechanisms are more informal and flexible than their judicial counterparts. Some worry that this very malleability may make such mechanisms weaker weapons in pushing the authorities for information and acknowledgment, and/or holding them accountable for their action and inaction. Yet the promise of such mechanisms may be precisely the fact that they are able to focus on victims, not just perpetrators, on civil society, not just the state. Their very informality and flexibility may make them better able to adapt to the needs of victims and their families.

Non-judicial mechanisms include: combinations of rewards, incentives, and threats to encourage cooperation from reluctant witnesses and perpetrators; truth commissions; investigation and reporting by international and non-governmental and international organizations; institutional reforms; indigenous forms of truth-seeking, justice, and reconciliation; public information campaigns about those who are missing; and reparation programs.

Victim families may have diverse and even divergent needs, and therefore are best served by a plurality of mechanisms. Judicial mechanisms and non-judicial mechanisms are not necessarily two alternative paths; rather they need to find common protocols for sharing of information and other resources to address families' needs. To maximize effectiveness, we need coordination of those diverse mechanisms, and collaboration between different institutions addressing different aspects of victim needs and priorities.

Moreover, mechanisms should seek to keep victims/victims' families informed and empowered. Without including families in the conceptualization, design, and implementation of mechanisms, we risk re-victimizing families in the very processes that were intended to address their injury. Further, it is crucial that mechanisms take into account and proactively address issues of language, rural location, gender, poverty, illiteracy, and other factors that may inhibit victims' families' access to information, participation, and ownership of the initiatives. To some extent, this is also the recognition that strengthening civil society is crucial to ensure a process that has local legitimacy, and addresses the priorities and needs of those most affected.

Flexibility and creativity regarding investigative techniques and procedures is key to balancing diverse priorities through context specific approaches. From East Timor to Rwanda to South Africa, contexts of transition have proved fertile ground for institutional innovation—where necessity (be it the scarcity of resources, the scale of abuse, or the compromises of a negotiated transition) has spawned great creativity and experimentation in the mechanisms that address mass atrocity.

### **7.2.3 Mr Marco Sassoli, Professor at the Faculty of Political Science and Law of the University of Quebec in Montreal (Canada)**

**TheMissing/Conf/02.2003/EN/28**

#### **Limits of Existing Mechanisms to Solve Issues on People Unaccounted For and Ways to Enhance Them**

Most of the people who disappear in situations of armed conflict and internal violence do so as a result of violations of international humanitarian law or international human rights law. Even the fate of those disappearing for other reasons could most often be clarified more rapidly if the rules of international humanitarian law and human rights law implementing the right of the families to know the fate of their relatives were respected.

Though it is the task of governmental authorities and other parties to an armed conflict to comply with the aforementioned laws, international and national mechanisms, that means procedures and institutions engaged in preventing disappearances, searching for missing persons and assisting relatives affected, can assist in this task. If the authorities fail to fulfill their duties, these mechanisms can never fully replace them. They should try to replace them to the maximum extent possible, but avoid absolving the authorities of their responsibilities.

All mechanisms should co-operate with each other and with local authorities and involve the beneficiaries of their services in their decision-making process. Such cooperation will favour what should be the aim of all those mechanisms, namely becoming part of national systems as well as part of an international regime.

Any competition existing between different mechanisms, rather than emanating from institutional agendas, should be fostered with a view to contributing to the success of the whole system concerned with a given context of disappearances, including through the work of alternate mechanisms. Donors should favour such cooperation, positive competition and complementary approaches.

Mechanisms are most effective at preventing disappearances; by way of training, technical and legal advice, promotion, public and confidential interventions with responsible authorities, sensitization of domestic and international public opinion as to the plight of the families of missing persons, and dissemination of the existing means available to avoid disappearances. States affected by armed conflicts should establish National Information Bureaux, as prescribed by international humanitarian law, and all States should prepare already in peacetime the establishment of such Bureaux.

The Red Cross and Red Crescent Family News Network greatly contributes to prevent that families consider relatives as disappeared.

The ICRC prevents detainees from disappearing when it visits them according to its traditional modalities.

Once such preventive and immediate corrective steps have failed, international mechanisms are very rarely successful in clarifying the fate of persons who remain missing after a conflict. National mechanisms are sometimes more successful, in particular once the regime has changed or through cooperation between formerly warring parties.

After a conflict though, most persons who remain missing must be considered deceased and the remains of many of them will never be found and identified. The only sustainable solution for the families involved is therefore that they accept the death of their loved ones. All other measures, such as the search for information, ensuring the latter's reliability, exhumations and forensic identification of remains, as well as material and psychological assistance provided to families, should contribute to that acceptance, rather than delay the mourning process.

The mode of operation, aim and legal basis of existing mechanisms are varied. Some may legitimately only offer certain services or choose to concentrate on specific categories of missing persons. Other mechanisms may only want to clarify the general picture of human rights abuses and violations of international humanitarian law, without searching for missing individuals. Even though their objectives may differ, all mechanisms should realize that they are a part of a bigger system and strive to respect, promote, and wherever possible, facilitate the work of other mechanisms involved in a given situation.

While human rights oriented mechanisms are legitimately mostly concerned with enforced or involuntary disappearances, they should realize that disappearances of persons that result from other violations of international humanitarian law constitute equally reprehensible and unacceptable infringements on the human rights of such persons. Likewise, when persons disappear for reasons other than violations of the applicable law, for example because they went missing in action, it should be understood that their relatives also have a right to know what happened to them.

All mechanisms should undertake steps not only with governmental actors when investigating disappearances, but also with non-State actors that may be involved; they should try to obtain information on the missing from all reliable sources.

Consequently then, national systems of mechanisms as well as an international regime tackling this issue should not exclusively focus on forced or involuntary disappearances, or on governmental authorities.

While collecting information on missing persons, mechanisms should cooperate in order to avoid situations where families are required to submit their case to several mechanisms or where information clarifying the status of a missing person fails to reach the family concerned. Agreements on the information to be exchanged, technical specifications of databases, access, control, and responsibility, should be concluded between all mechanisms involved, before the search for missing persons in a particular context begins. Solutions must and can be found, which reconcile, on the one hand, the need for centralized data processing and, on the other hand, the necessity to avoid prejudices to families and missing persons, to protect sources and data, and to obtain and maintain access to such sources.

Mechanisms should inform the families of missing persons who approach them what is their mandate, how they work, which alternate mechanisms may respond to their needs, and which are the chances of success, in particular of finding the missing persons alive. Mechanisms should not create false hopes nor delay the mourning process. A genuine dialogue with the affected families allows them to know their needs and to discuss possible solutions. Family associations accountable to their members should be encouraged, but not constitute the only contact between mechanisms and families.

Mechanisms involved in exhumations and forensic identification must coordinate their activities with those prosecuting violations resulting in disappearances. These and other mechanisms ought to avoid hampering the quest for justice, while ensuring conversely that prosecution mechanisms do not neglect the necessity to identify human remains and to give families access to those remains.

Cooperation between formerly warring parties for the purpose of clarifying the fate of missing persons should be encouraged. However, multilateral or tripartite mechanisms should only be established for that purpose when former belligerents demonstrate a genuine political will to clarify cases of disappearances for which they are responsible. The goals of these mechanisms should be to establish and enhance mutual trust, to discuss policy and to establish working plans (including on exhumations), not to exchange data on individual cases.

All mechanisms require sufficient means to fulfill their tasks. Providing such means is a way of respecting the right of families to know the fate of their missing relatives. However, a mechanism should not start to use methods when it can reasonably foresee that the means available to apply those methods will not be sufficient for all the cases of missing persons falling under its mandate.



### 7.3 Panel Report to the Plenary, by Mr Javier Ciurlizza Contreras, Executive Secretary, Truth and Reconciliation Commission (Peru)

TheMissing/Conf/02.2003/EN/81

#### **1. Mechanisms should be driven by the victim's needs:**

- need for information
- need for accountability
- need for acknowledgement.

2. Most of the people who disappear in situations of armed conflict and internal violence do so as a **result of violations of international humanitarian law or international human rights law**. Though it is the task of governmental authorities and other parties to an armed conflict to comply with the aforementioned laws, international and national mechanisms, i.e. procedures and institutions engaged in preventing disappearances, searching for missing persons and assisting their relatives, can assist in this task.

3. Most situations require the existence of **multiple mechanisms** (humanitarian, governmental, judicial, non-judicial), to cover the range of needs experienced by families and communities.

4. These mechanisms should be adapted to the national context, should be independent and impartial (not donor driven), and should not be externally imposed.

**5. Mechanisms are effective means of preventing disappearances: They should be set up as early as possible including before the conflict arises.** For example mechanisms can help by way of training, technical and legal advice, promotion, public and confidential representations to the responsible authorities, sensitization of domestic and international public opinion as to the plight of the families of missing persons, and dissemination of the existing means available to avoid disappearances.

States affected by armed conflicts should establish National Information Bureaux, as prescribed by international humanitarian law, and all States should provide for such Bureaux already in peacetime. Mechanisms such as ICRC or CPT can prevent detainees from disappearing.

6. The missing persons issue should be dealt with at the end of a conflict, within a **peace process or a democratic transition.**

7. All mechanisms should take steps **not only with governmental actors when dealing with disappearances, but also with any non-State actor** that may be involved.

8. Cooperation between formerly warring parties for the purpose of clarifying the fate of missing persons should be encouraged. However, multilateral or tripartite mechanisms should only be established for that purpose when former belligerents demonstrate a **genuine political will** to clarify cases of disappearances for which they are responsible. The goals of these mechanisms should be to establish and enhance mutual trust, to discuss policy and to establish working plans (including on exhumations), not to exchange data on individual cases.

#### **9. Judicial and non-judicial mechanisms**

**Judicial mechanisms** are often seen as the most obvious means of providing victims' families with an effective route to holding the perpetrators accountable for their actions. These mechanisms can be a symbol of the State's acknowledgment of the violation and its direct or indirect responsibility. The issue of accountability is of utmost importance. In principle, perpetrators should go through a judicial process.

There will always be tension between obtaining information and assigning accountability. The challenge is to build complementary but separate mechanisms, which can deal with these two objectives.

**However in some contexts, there is a disjuncture between the goals and methodologies of criminal justice systems on the one hand, and the priorities of families of the missing on the other.** For instance, while criminal justice investigations aim toward prosecutorial goals to identify those who can be proven to be criminally responsible, families of the missing may prefer that investigations focus on obtaining maximum information regarding their loved ones; families may seek greater control and access over such information than is compatible with criminal justice procedures.

**While judicial mechanisms provide an important basis for addressing the goals of families of the missing, in many contexts addressing these goals may also warrant looking beyond criminal justice processes.** In such cases, specific mechanisms can be used, such as combinations of rewards, incentives, and threats to encourage cooperation from reluctant witnesses and perpetrators; truth commissions; investigation and reporting by inter-governmental and non-governmental organizations; institutional reforms; indigenous forms of truth-seeking, justice, and reconciliation; public information campaigns and reparation programmes.

Measures such as laws granting amnesty, truth commissions or legislation introducing less severe punishment or granting protection to the perpetrators can prove useful to collect information, provided they make a substantial contribution to establishing the truth. Blanket amnesties, however, should not be enacted; any amnesty measures must be applied in accordance with international law.

Non-judicial mechanisms are more informal and flexible than their judicial counterparts. Their very informality and flexibility may make them better able to adapt to the needs of victims and their families.

Judicial and non-judicial mechanisms are not necessarily two alternative paths; rather they need to find common protocols for sharing of information and other resources to address families' needs. To maximize effectiveness, there is a **need for coordination of those diverse mechanisms, and collaboration between different institutions addressing different aspects of victim needs and priorities.**

#### **10. The need for mechanisms to be complementary and coordinated**

To maximize effectiveness, the mechanisms should coordinate with and consult each other to avoid duplication and contradictions in procedure.

They should co-operate with local authorities.

They should communicate and consult with all sectors of society.

They should systematically clarify their goals and working methods. Agreements on the information to be exchanged, technical specifications of databases, access, control, and responsibility, should be concluded between all mechanisms involved before the search for missing persons in a particular context begins. Solutions must and can be found which reconcile, on the one hand, the need for centralized data processing and, on the other hand, the necessity to avoid prejudices to families and missing persons, to protect sources and data, and to obtain and maintain access to such sources.

They should form partnerships with NGOs, which may play a crucial role, may help catalyze victims / family organizations and may help re-integrate the victims and facilitate society's acceptance of them.

The involvement of international organizations lends credibility to the process, even if it is national.

State reparations and support for victims / families should be part of the package.

#### **11. Information to families**

All reliable information should be transmitted to the families. Mechanisms should inform the families of missing persons about their mandate, how they work, which alternate mechanisms may respond to their needs, and what the chances of success are, in particular of finding the missing persons alive. **Mechanisms should not create false hopes nor delay the mourning process.** A genuine dialogue with the affected families allows them to know their needs and to discuss possible solutions.

Family associations accountable to their members should be encouraged, but should not constitute the only contact between mechanisms and families.

## 8. Working Group on the *Observations and Recommendations*

### 8.1 Report to the Plenary by the Chairman, Mr Nicolas Michel, Director, Directorate of Public International Law, Federal Department of Foreign Affairs (Switzerland)

TheMissing/Conf/02.2003/EN/82

The objective of the Working Group was to have an overview of the *Observations and Recommendations*<sup>18</sup>, 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)*<sup>19</sup>. 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.

---

<sup>18</sup> TheMissing/Conf/02.2003/EN/1

<sup>19</sup> ICRC/TheMissing/01.2003/EN/10

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 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.

## 8.2 *Observations and Recommendations, Adopted by Consensus on 21 February 2003*

TheMissing/Conf/02.2003/EN/1

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 violence<sup>20</sup>,
- (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.

---

<sup>20</sup> 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.

## **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.

## 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.





## 9. Plenary General Debate: Report

TheMissing/Conf/02.2003/EN/83

### Report by the Chairman, Mr Yves Sandoz, Member of the ICRC

Over the last three days, no fewer than 56 delegations have taken the floor as part of the general debate. This debate has been particularly fruitful, and in my opinion it has been unique in its kind.

The most outstanding feature of the general debate has been the diversity of its participants. Firstly, their geographic diversity, which reveals how the problem of persons unaccounted for as a result of armed conflict or internal violence is not limited to one part of the world alone. Instead, it is a current feature of Latin America, Europe, the Middle East, Asia and Africa. The second factor has been the diversity in the types of delegations, for in addition to representatives of the families of missing persons, the participants have included representatives of governments, inter-governmental and non-governmental organizations, various components of the International Red Cross and Red Crescent Movement, and independent experts. Such diversity underscores the range and number of the actors concerned, and shows that progress **depends** on a **concerted** effort by us all.

With this wide range of discussions and the diversity of participants in mind, it might seem unwise to try and summarize the proceedings of the general debate in just a few minutes. Accordingly, I should mention that many of the oral statements made in the Plenary have been produced in written form, and that other contributions which were not read out in the Plenary have also been made available to you in writing. These documents are thus freely available for consultation. Nonetheless, let us attempt at this juncture to identify the main themes of our discussions.

1. Firstly, the **reality of the suffering of family members** has been recognized and fully acknowledged by us all.
2. Secondly, **the law as a means** to help alleviate such suffering has been presented as an essential tool.
3. Lastly, the majority of the participants pointed out that this conference marks a fundamental, even historical, step in the **search for solutions** to the problem of missing persons. They stressed that these efforts must be pursued, and some participants formulated concrete proposals to this end.

I should now like to review these three main themes in more detail.

### 1. Suffering of family members

"No-one disappears alone", said one participant. When a loved one goes missing, it is tantamount to an "absence without a trace", remarked another, adding that family members find this phenomenon particularly hard to come to terms with. It was repeatedly said that this inability to properly mourn missing relatives has proved to be the source of profound psychological disturbance. Several participants also described the lack of support for and social recognition of family members of missing persons. We heard that this situation was exacerbated by economic problems due to the loss of earnings of the disappeared person, or the inability of the missing person's relatives to resume their position in society. Thus, **the participants requested that, just like missing persons themselves, their survivors and family members be considered victims.**

The participants stressed the need for a better support system for family members. They said that this would entail, first and foremost, acknowledgement of their suffering, followed by psychological and material support, and assurances that no effort shall be spared in providing them with a satisfactory response to their needs.

**Ascertainment of the fate of a missing relative was presented as being the most important and obvious need.** Consequently, the participants made frequent calls for the *right to know*. In the context of existing jurisprudence, some delegations also held that deliberate refusal to provide families with information on their missing relatives should be considered as an act of torture.

Participants did point out, however, that while families must be guaranteed the right to know, this right must not be **imposed** on them, that their will and free choice must prevail in all circumstances. Furthermore, opposition was expressed to any action that would give families false hope in situations where, in all likelihood, their missing relatives were dead. Some participants condemned the act of withholding or using information for political means, and called for a strictly humanitarian approach to the use of information.

The participants also underscored the frustration experienced by the relatives of missing persons in their quest for information and justice. Many of the speakers deplored the **absence of political will in particular**, as well as the lack of empathy and available resources. It was also pointed out that sometimes the fear of opening a "Pandora's box" led authorities to ignore families' requests rather than respond to them. Several participants denounced this behaviour, and pointed out that the refusal to meet the legitimate needs and expectations of families served only to impede the reconciliation and peace process.

Participants said it was important and urgent that the entire community acknowledged the question of missing persons as being its responsibility. The fate of missing persons should be seen as "**our**" problem, not just the problem of their relatives. Not only could the act of shirking this collective responsibility increase the suffering of family members; it could also have harmful repercussions on the social and economic structure of the community as a whole.

## **2. Law as a means**

The President of the ICRC, Mr Jakob Kellenberger, recalled in his opening address that most disappearances stemmed from violations of international humanitarian law or human rights law.

The gravity of these breaches was emphasized several times. Various speakers stated that acts leading to enforced disappearances should be designated as crimes against humanity.

There are laws, but if the issue of missing persons persists, it was underlined, it is because they are **not adequately respected** by those involved.

Many speakers urged that existing legal provisions should be developed at both the international and local level. The need to deal more effectively with the perpetrators' impunity was also stressed. Further, the work launched this year by the Working Group of the Commission on Human Rights, in charge of elaborating a draft legally binding normative instrument for the protection of all persons from enforced disappearance, was hailed as "very promising".

Finally, there was a call for complementarities between international humanitarian law and human rights law to cover the largest possible number of situations.

Other speakers regretted that the paper submitted for adoption by the conference, *Observations and Recommendations*, was not of a more binding nature.

## **3. Recommendations**

It was widely recommended that the action to resolve the problem of people unaccounted for and to help their families should be **pursued and developed**. Participants urged that follow-up action should be carried out at the national and international level, and should focus on legal and operational factors.

Another message that came through loud and clear was the need to remember that the missing persons issue is first and foremost a **human problem**, and that all measures should be aimed at preserving and respecting the human dignity of the victims.

In addition, the following proposals were notably put forward:

- All participants should actively **promote and implement the *Observations and Recommendations* to be approved by the conference**;
- greater psychological, material and financial assistance should be made available to the families of missing persons, and special attention should be paid in this respect to the needs of women and children;
- expertise, in particular with regard to the identification of human remains, was offered to organizations devoted to helping the families of missing persons;
- **working methods** to tackle problems relating to disappearances, outlined in the ICRC's summary report of the workshops and preparatory work leading up to the conference<sup>21</sup>, should be applied by all those involved;
- one or more international bodies should be empowered to deal specifically with the issue of missing persons. They should in particular be allowed to freely gather information relating to those individuals, to monitor respect for existing legislation, to provide support to families and to fight against the impunity of the perpetrators of disappearances. The ICRC's prospective role in some of those tasks was mentioned several times;

---

<sup>21</sup> ICRC/TheMissing/01.2003/EN/10

- participants should redouble their efforts in **promoting more effectively the existing rules of international humanitarian law and human rights law** aimed at preventing disappearances and should **affirm their political will** to respect and ensure respect for those rules;
- the adoption of a statement formally acknowledging **the right of families to know the fate** of missing relatives, and States should pass relevant legislation;
- recommendations made by the Conference should serve as a foundation to develop rules prohibiting and repressing enforced disappearances, in particular in the frame of the work carried out under the auspices of the United Nations Commission on Human Rights. The recommendations should also be promoted in other fora, such as the upcoming International Conference of the Red Cross and Red Crescent;
- rules of law relating to the missing persons issue should be respected in all situations of armed conflict and internal violence and should apply to all parties involved, governmental or not;
- impartial and independent fact-finding commissions should be set up at national and international levels. In this respect, the International Fact-Finding Commission (Article 90, Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflict (Protocol I) of 8 June 1977), could have a significant role to play;
- lastly, in the event of massacres or genocides, the means and procedures involved in the complex issue of missing persons should be considered.

Thank you for your attention.



## 10. Plenary Final Statements: Summary

In all, twenty delegations, representing every type of Conference participant, asked for the floor to make a final statement.

The speakers applauded both the preparatory work carried out prior to the Conference and the wealth of material covered during the Conference deliberations. They also expressed satisfaction that the *Observations and Recommendations* had been adopted by consensus.

Several speakers pledged to help implement the *Observations and Recommendations* and to raise the issue of missing persons in other fora, in particular within the framework of the deliberations of the United Nations Commission on Human Rights and the forthcoming International Conference of the Red Cross and Red Crescent. They also pledged to take tangible steps in response to the suffering engendered by the problem.

A number of speakers called for greater cooperation between all the stakeholders, and several speakers underscored how useful it had been to hear witness accounts and statements from such a wide range of sources.

While some of the statements pointed out that the adoption of the *Observations and Recommendations* imposed no binding constraints on the participants, several speakers nevertheless recalled that, in their view, legal provisions existed and were applicable without derogation. In that respect, several speakers also underscored the importance they attached to enhanced respect for international humanitarian law, values and principles by all those involved, the governments and others.

They also stated that the Conference marked a decisive but not conclusive point in a process aimed at resolving the problem of missing persons and improving assistance for their families.



## 11. Closing of the Conference

### 11.1 Statement by Mr Jacques Forster, Permanent Vice-President, ICRC

TheMissing/Conf/02.2003/EN/84

Mr Chairman,

Ladies and Gentlemen,

When the ICRC decided to convene this conference on missing persons and to moderate the meetings leading up to it, it knew full well that it was tackling an important but thorny issue, one that has an overwhelmingly humanitarian dimension, but that also touches on a number of sensitive matters that are politically or legally controversial, or simply technically complex. It therefore gives the ICRC great satisfaction indeed to observe that the past three days can attest to a rich and almost unique debate between the families concerned, professionals from the field of forensic medicine, humanitarian practitioners, human rights defenders and political leaders.

As our deliberations come to a close, I am convinced that each of us has obtained a better understanding of the suffering endured by those who are without news of their loved ones. I am also convinced that we are aware that more decisive action must be taken to prevent disappearances during armed conflicts and in situations of internal violence. Our conclusions further confirm the moral, legal and political obligation to ascertain the fate of those who are, unfortunately, missing and to provide support to their families.

Each of us is also surely more aware that these are ambitious and complex objectives. They require the commitment of all those concerned: the authorities directly involved, the community of States, regional and international intergovernmental organizations, non-governmental organizations, and of course the ICRC, and with it the International Red Cross and Red Crescent Movement. All must work in the service of, or at least side-by-side with, the families of missing persons.

To be effective, our commitment must be based on legal rules, and we must all agree to and support this position: we must ensure respect for existing rules, identify loopholes in the law and pinpoint what rules, if any, need to be developed internationally and nationally. Our commitment must be coordinated. It implies shared and complementary working methods. It requires that each and every one of us be unbending in the implementation of ethical and professional practices. It also requires that adequate means, in particular financial resources, be made available.

Each of us must see in the *Observations and Recommendations* adopted by the Conference today the need for decisive political, legal and operational action. Indeed, the commitment we make today, by identifying the issues that remain to be resolved and many means of doing so, has specific consequences.

The ICRC has thought about this throughout the process leading up to this conference. It has already established new internal operational guidelines for preventing disappearances, clarifying the fate of those who are missing as a result of an armed conflict or situation of internal violence, and providing support for the families. The guidelines were drawn up in the light of the ICRC's specific mandate and reflect the recommendations and best operational practices outlined in the summary report on the conclusions of the events preceding the conference.<sup>22</sup> They are being implemented in ICRC field operations and put forward in the regional and international fora in which the ICRC participates. They are also gradually being incorporated into training programmes for ICRC staff.

Outside its walls, the ICRC will continue to emphasize, in international, regional and national fora, the essential role of international humanitarian law and international human rights law in preventing disappearances, clarifying the fate of missing people and reinforcing the families' rights to information and support.

It goes without saying that we would like to be joined in our efforts by as many as possible of those concerned by persons who are missing as a result of armed conflict or internal violence, and that we are convinced that only by coordinating our efforts will we be able to answer the urgent questions raised by the families, to alleviate their suffering or at least ease their worry, and to save more lives. The ICRC will nevertheless also continue its own work, taking action and mobilizing its humanitarian partners.

---

<sup>22</sup> ICRC/TheMissing/01.2003/EN/10

In December of this year, the International Conference of the Red Cross and Red Crescent will bring together, in this very place, all the States party to the Geneva Conventions, the components of the International Red Cross and Red Crescent Movement and a large number of observers who are interested or involved in humanitarian action. The Conference will pursue our examination of the measures needed to prevent disappearances and provide support to the families of missing persons. We will therefore have the opportunity, beyond this conference of experts, to highlight and recall the priorities for action by governments and humanitarian organizations. As was pointed out during this conference, the role that the National Red Cross and Red Crescent Societies can and do play could also be considered in greater depth.

Mr Chairman, Ladies and Gentlemen, as you can see, the ICRC is determined to continue and to enhance its activities to prevent disappearances, to ascertain the fate of missing persons and to provide support to their families. It wishes to do this in coordination with all those involved. The ICRC calls on the governments and armed groups concerned, on regional and international governmental organizations and on non-governmental organizations to act towards the same end.

For my part, it is my hope and indeed my belief that continued joint efforts such as those made during these three days of intense work will make a significant contribution to resolving this most serious issue. I speak for the ICRC when I say that I am convinced that a humanitarian mobilization of this kind will bear fruit and mitigate the suffering of the families of missing persons and, what is more, will help reduce the number of persons who are unaccounted for, and, I hope, one day put an end to the bane of missing persons!

Thank you, Mr Chairman, Ladies and Gentlemen, for your commitment to pursue your efforts and activities to that common end.

## **11.2 Conclusion and Closing of the Conference by the Chairman, Mr Yves Sandoz, Member of the ICRC**

Your Excellencies, Ladies and Gentlemen, dear friends,

The time has come to conclude and to close this Conference. Allow me first to thank all those who had a kind word to say for the ICRC and for those who helped prepare and organize the Conference. When it comes to drawing conclusions from these three days, the very substantive final statements and the speech just made by the ICRC Vice-President greatly facilitates my task.

I would nevertheless like to add a few personal comments.

When the Conference opened, I summed up the main objectives, namely to enhance understanding of the complexity and multiple aspects of the issue of missing persons; to foster empathy with the victims; to take better action, more intelligently, in a more coordinated fashion by forging alliances; to develop preventive action; to mobilize the international community; to make a personal commitment.

These are in fact the objectives of a process that was launched long before the Conference opened and that must continue long after it closes. The issues discussed here will be with us for years to come. We must not give rise to false hopes on the subject, and our efforts must focus on reducing the scope of the problem and enhancing assistance to the victims.

No matter what we do, it will never be enough. We must keep this in mind, not so that we become discouraged but rather so that we maintain the momentum and a healthy feeling of revulsion towards several aspects of the problem. No step forward in the humanitarian field, no matter how small, is pointless. But no step forward is ever enough, either.

In short, the Conference must be assessed in terms of an ongoing process, and it would be pointless to speak of the success of the Conference if that process were to stop here.

I do not say this to minimize the importance of the Conference as such. The Conference marked a highpoint in the process.

To sum up in a few words what happened here and where we are as the Conference comes to an end, I would say that an awareness has emerged of the need to do more, better to resolve the tragic issue of missing persons. At the ICRC, that awareness was first felt by several staff members, in particular Danielle Coquoz, who shared her concern with several others and soon found a large audience. Let us remember that behind every institution there are individuals and their ability to feel for others.



That awareness sparked and became the driving force for a huge undertaking that was subsequently carried out by the ICRC in close cooperation with many experts from a variety of fields and organizations, namely to enhance understanding and clarify the definitions of the many problems relating to disappearances. This collective undertaking made the ICRC and many other organizations aware that expertise was needed from numerous fields in order to manage all aspects of the issue and consequently that there was a need for expert cooperation, networking and greater coordination.

The Conference aimed to consolidate that undertaking, to spread knowledge of it and to serve as a springboard for action. I will not deny that in that respect there may have been some ambiguity about the role of the Conference. Some people wanted to see a more detailed discussion of the quality of the springboard, namely the *Observations and Recommendations* we have just adopted, and would have wanted that discussion to be a series of negotiations, the main goal of the Conference. Others, including us, thought that detailed negotiation of a text that had been carefully prepared and that the participants would have commented on before the Conference, would overwhelm the Conference's capacities and risked denaturing the spirit we wanted it to have. For this group, the Conference's principal objective was to examine together just how far the springboard would enable us to leap, what we could, individually or together, do to take account of the observations, to follow the recommendations.

A degree of tension did make itself felt in particular over the right of the families to know what has happened to their loved ones. That right is stipulated in international humanitarian law and, as was said, the aim was certainly not in any way to undermine existing norms. It can nevertheless not be denied that points relating to the scope of that right, its beneficiaries and the concrete duties it implies remain to be clarified. What appears essential to us is the awareness of how important it is for the families to know what happened to their next-of-kin, awareness that it is intolerable that all is not done or, worse yet, that information is deliberately held back. The Conference has strongly and clearly transmitted that message to all those who are or will be working to clarify, strengthen and develop the law.

I would now like to say a few words about the composition of the Conference, with its unusual range of delegations (over 350 of us took part) from widely divergent backgrounds and the four corners of the globe.

I said it at the end of the plenary but I want to repeat it here. It was a real challenge to ask people so closely involved in situations of war or internal violence, the victims of such situations, to tell us of their problems, the difficulties they encounter both psychologically and in material terms, and to avoid political controversy. Some of the accounts, of course, inevitably came close to being politically controversial, but, in spite of the great frustration accumulated by several participants in respect of the situations they are experiencing and thanks to your understanding for the meaning we wanted to give this Conference, our discussions were of high quality and often very moving. The cohabitation of experts, representatives of associations directly concerned, of non-governmental and governmental organizations and of governments thereby became truly meaningful, and I think I can say that the challenge of that cohabitation was met and may serve as an example for other initiatives.

I would therefore venture to say, Ladies and Gentlemen, as this Conference comes to a close, that its objectives have been met. Let us go over them.

**Better understanding:** this is undoubtedly the case for many of us, as demonstrated by our deliberations and in particular by the in-depth discussions that took place in the Working Group and the Panels.

**Fostering empathy:** only those with a heart of stone could fail to be moved by the stories we heard. I was particularly touched to see that people directly immersed in the problem of missing people attached such great importance to dialogue with people facing the same problems in other regions or other situations.

**Acting intelligently, forging alliances:** this objective obviously goes further than the scope of the Conference, but the Conference certainly made a useful contribution to contact between victims, between experts, and between experts and victims.

**Prevention:** this, of course, is a long-term ambition, and we have many recommendations on the matter. I would add that bilateral contacts on the issue of disappearances can also serve to close the gap, to diminish antagonisms, to enhance understanding of other points of view and perhaps even – why not? – to solve the problems that are at the root of armed conflicts and other situations of violence. Let us not forget that the best way of preventing disappearances is to eliminate such situations or reduce the level of violence.

**Mobilization:** the journalists who attended the Conference as observers must now become active players. We are counting on them to spread knowledge to the general public of the extent and seriousness of the problem of missing persons and to incite those who can to take steps to fight the phenomenon and to ease the suffering of its victims. Remember the role played by the media and civil society in the campaign to ban anti-personnel landmines and the progress made thanks to the mobilization achieved: things can be changed.

Finally, making a personal commitment. This, obviously, is what is expected of all of us in the future, in line with our individual means and skills. During the Conference I felt that there was strong determination to act, but that determination must be confirmed and made to last. Let us not forget that the cause of humanity is carried forward by the sum of individual initiatives and commitments.

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

Yours Excellencies, Ladies and Gentlemen, dear friends,

It remains for me to thank all those who made this Conference a success. The list is long, too long, for me to mention everyone by name as they deserve. I would nevertheless like to thank several people in particular.

First, all those involved in the daunting task of preparing the Conference, who wrote the reports submitted to us or who participated in the deliberations on the basis of which those reports were written, in particular the many experts who took part.

Also all those who helped make the Conference itself a success. I will mention no names, it was a magnificent example of teamwork that involved countless people, in particular the technical staff and the rapporteurs who spent much of last night putting the finishing touches to the reports placed before you today. I will make one exception, however. All those who were involved in this Conference know that Sophie Martin played a central and compelling role. Without her we would not have achieved all we did. She conducted this undertaking with an energy and constancy that force our admiration. Allow me to express that admiration out loud.

I would also like to mention all those who agreed to chair the Panels or draw up the reports. Their competence was equal to their efficiency in all cases, but again I would like to make one exception, namely Ambassador Nicolas Michel, who directed the deliberations of the Working Group with remarkable skill and intelligence.

Great musicians are those who can interpret the works of the most prestigious composers with talent and soul. I think we can also speak of great musicians when it comes to the work of the remarkable team that played back-up to our deliberations these past few days, sometimes using extremely difficult scores, especially when the work had to be done prestissimo. Our gratitude goes to them.

Last but not least, indeed most of all, it is you, dear friends, who made this Conference a success. I wish to thank you from the bottom of my heart, for your moving statements, your participation in the discussions, your commitment. You gave the Conference the spirit we wanted it to have and maintained that spirit to the end.

The time has come now to take the leap forward, to aim high, very high, in the fight against disappearances, to do our best to minister to the permanent scars they leave.

Thank you, have a safe journey home and, I have to say it, let's get to work.

I declare the Conference of governmental and non-governmental experts closed. The meeting may rise.

## 12. List of participants

Mainly in English, sorted in Alphabetical Order by Country and Entity for States and by Entity and Country for Organizations.

Nb	Country / Entity or Entity / Country	Name	Function
1	(None), Canada	Mr Eugene Leon Oscapella	Legal consultant (data protection in the medical and genetic fields), Canada
2	(None), Kenya	Mr Alex Kirasi Olumbe	Forensic pathologist (Doctor)
3	(None), United States of America (the)	Ms Jane E. Durgom-Powers	Attorney at Law
4	African Union, Permanent Delegation (Geneva)	Mr Abdirizak Ali Musa	Counsellor
5	Afronet (Inter African Network for Human Rights and Development)	Mr Ngande Mwanajiti	Executive Director
6	AI (Amnesty International)	Mr Claudio Cordone	Director, International Law and Organizations, International Secretariat
7	Albania, RC Society	Mr Shyqyri Subashi	President (Professor Doctor)
8	Algeria, Commission nationale consultative de la promotion et de protection des droits de l'homme	Mr Ahcene Bouskia	Conseiller à la Présidence de la République
9	Algeria, Commission nationale consultative de la promotion et de protection des droits de l'homme	Mr Mustapha Farouk Ksentini	President
10	Algeria, Permanent Mission (Geneva)	Mr Lazhar Soualem	Minister Counsellor
11	Alliance of Associations of Families of Missing Persons, Croatia	Ms Marija Katic	Member of the Board
12	APT (Association for the Prevention of Torture)	Mr Edouardo Delaplace	United Nations and Legal Program Officer
13	APT (Association for the Prevention of Torture)	Ms Debra Long	United Nations and Legal Program Officer
14	Argentina, Permanent Mission (Geneva)	Mr Sergio Cerda	Counsellor
15	Argentina, Permanent Mission (Geneva)	Ms Norma Nascimbene de Dumont	Minister, Deputy Permanent Representative
16	Armenia, Ministry of Defense, Armenian State Commission for Prisoners, Hostages and Missing Persons	Mr. Gagik Kocharian	Head of the Working Group of the State Commission for Prisoners of War, Hostages and Missing Persons
17	Armenia, Ministry of Defense, Armenian State Commission for Prisoners, Hostages and Missing Persons	Mr. Ara Mesrobian	Interpreter
18	Armenia, Permanent Mission (Geneva)	Mr Zohrab Mnatsakanian	Ambassador and Permanent Representative
19	Armenia, Permanent Mission (Geneva)	Mr Tigran Samvelian	First Secretary
20	Association of Parents and Families of Arrested, Captured and Missing Persons FR Yugoslavia in the Storm of War, Serbia and Montenegro	Mr Radivoje Simovic	President

The Missing  
International Conference of Governmental and Non-Governmental Experts  
Conference Acts

Nb	Country / Entity or Entity / Country	Name	Function
21	Association of Parents and Families of Arrested, Captured and Missing Persons FR Yugoslavia in the Storm of War, Serbia and Montenegro	Ms Jelena Stijacic	Interpreter
22	Association of the Missing and Kidnapped Persons in Kosovo and Metohija, Serbia and Montenegro	Mr Simo Spasic	Coordinator
23	Attorney's General Office, Argentina	Ms Alejandra Gils Carbó	Prosecutor
24	Auditoría General de la Nación, Argentina	Mr Leandro Despouy	Presidente
25	Australia, Permanent Mission (Geneva)	Ms Jennifer Meehan	First Secretary
26	Austria, Permanent Mission (Geneva)	Mr Alexander Wojda	First Secretary
27	Austria, RC Society	Mr Johannes Guger	Head of International Department
28	Austria, RC Society	Ms Andrea Reisinger	Assistant to the Managing Board
29	AVEGA, Rwanda	Ms Dancille Mukandoli	President
30	Azerbaijan, Ministry of Foreign Affairs	Mr Fuad Ismayilov	Head of Division, a.i. Democratisation and Human Rights
31	Azerbaijan, Permanent Mission (Geneva)	Mr Ismail Asadov	Third Secretary
32	Azerbaijan, Permanent Mission (Geneva)	Mr Murad N. Najafov	Chargé d'Affaires a.i.
33	Azerbaijan, State Commission for Prisoners of War, Hostages and Missing Persons	Ms Gilshan Aliyeva	Head of the Working Group of the State Committee for the problems of prisoners of war, hostages and missing persons
34	Bahrain, Permanent Mission (Geneva)	Mr Ali Al-Aradi	Third Secretary
35	Bahrain, Permanent Mission (Geneva)	Mr Ali Al-Sisi	First Secretary
36	Bangladesh, Permanent Mission (Geneva)	Ms Rabab Fatima	Counsellor
37	Belgium, Ministry for Foreign Affairs	Mr Sigurd Schelstraete	First Secretary, Direction for Human Rights and Humanitarian Actions
38	Belgium, Permanent Mission (Geneva)	Ms Florence Duviensart	Attaché
39	Belgium, RC Society	Ms Brigitte Beuriot	Responsible, Tracing Service
40	Belgium, RC Society	Mr Pierre Huybrechts	Head, International Law Department
41	Belgium, RC Society	Ms Nadia Terweduwe	Head of Tracing Service
42	Bosnia and Herzegovina, Federal Commission for Tracing Missing Persons	Mr Amor Masovic	Chairman
43	Bosnia and Herzegovina, Federal Commission for Tracing Missing Persons	Ms Negra Masovic	Interpreter
44	Bosnia and Herzegovina, Permanent Mission (Geneva)	Mr Sefik Fadzan	Minister Counsellor
45	Bosnia and Herzegovina, Permanent Mission (Geneva)	Mr Milos Vukastinovic	Ambassador and Permanent Representative
46	Bosnia and Herzegovina, RC Society	Mr Brano Dursun	Co-Chair of the Presidency
47	Bosnia and Herzegovina, RC Society	Ms Lea Zubic	Interpreter
48	Bosnia and Herzegovina, Republica Srpska Commission for Tracing Missing and Detained Persons	Ms Gordana Dorda	Interpreter

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

<b>Nb</b>	<b>Country / Entity or Entity / Country</b>	<b>Name</b>	<b>Function</b>
49	Bosnia and Herzegovina, Republica Srpska Commission for Tracing Missing and Detained Persons	Mr Milan Ivancevic	Chairman
50	Bulgaria, Ministry of Foreign Affairs	Mr Philippe Garkov	Minister Counsellor, Department for International Humanitarian Organizations
51	Bulgaria, Permanent Mission (Geneva)	Ms Deana Méhandjijska	Attaché
52	Cambodia, RC Society	Ms Pum Chantinié	First Deputy Secretary General
53	Canada, Department of Foreign Affairs and International Trade	Ms Claudie Senay	Policy Advisor (Humanitarian Affairs), Human Rights, Humanitarian Affairs, International Women's Equality Division
54	Canada, Permanent Mission (Geneva)	Mr Thomas Fetz	Third Secretary
55	Canada, RC Society	Ms Susan Johnson	National Director, International Programs and Humanitarian Issues
57	CCJP (Catholic Commission for Justice and Peace in Zimbabwe), Zimbabwe	Mr Charles Dube	
58	Centre Oecuménique des Droits de l'Homme, Haiti	Mr Jean-Joseph Exumé	Conseil d'administration, membre
59	CFKDL (Committee of Families of Kidnapped and Disappeared in Lebanon), Lebanon	Mr Habib Nassar	Vice-President
60	Chile, Permanent Mission (Geneva)	Ms Carmen Hertz	Scientific expert
61	Colombia, Defensoria del Pueblo/Comisión de Búsqueda de Personas Desaparecidas	Mr Eduardo Cifuentes Munoz	Defensor del Pueblo
62	Coordination Council of Kosovo Family Associations	Mr Sheremet Ademi	President
63	Coordination Council of Kosovo Family Associations	Ms Lindita Xhaferi	Interpreter
64	Council of Europe	Mr Markus Jaeger	Deputy Director, Office of the Commissioner for Human Rights
65	Council of Europe	Ms Marie-Louise Tougas	Intern, Office of the Commissioner for Human Rights
66	Council of Europe, CPT (European Committee for the Prevention of Torture)	Mr Marc Nève	Member of the Committee
67	Council of the European Union, Liaison Office (Geneva)	Mr Jacques Brodin	Ambassador, Head of the Liaison Office
68	Council of the European Union, Liaison Office (Geneva)	Mr Guus Houttuin	Deputy Head of the Liaison Office
69	Croatia, RC Society	Ms Katija Damjanovic	Head of Office of the Executive President
70	Croatia, RC Society	Ms Dubravka Horvat	Deputy Executive President
71	Cyprus, Ministry of Foreign Affairs	Mr Nicos Theodosiou	Member
72	Cyprus, Ministry of Foreign Affairs, Office of the Greek Cypriot Representative to the Committee on Missing Persons	Mr Ilias Georgiades	Office of the Presidential Commissioner for Humanitarian Affairs
73	Cyprus, Ministry of Foreign Affairs, Office of the Greek Cypriot Representative to the Committee on Missing Persons	Mr Xenophon Kallis	First Assistant
74	Cyprus, Permanent Mission (Geneva)	Ms Frances-Galatia Lanitou-Williams	Counsellor

The Missing  
International Conference of Governmental and Non-Governmental Experts  
Conference Acts

Nb	Country / Entity or Entity / Country	Name	Function
75	Cyprus, Permanent Mission (Geneva)	Ms Helena Mina	Second Secretary
76	Cyprus, Permanent Mission (Geneva)	Mr Alexandros Vikis	Ambassador and Permanent Representative
77	Democratic People's Republic of Korea (the), RC Society	Mr Song Chol Kim	Counsellor
78	Democratic People's Republic of Korea (the), RC Society	Mr Yong Ho Kim	Second Secretary
79	Democratic People's Republic of Korea (the), RC Society	Mr Kwang Il Ri	Second Secretary
80	Denmark, Permanent Mission (Geneva)	Mr Michael Jensen	Secretary
81	Denmark, Permanent Mission (Geneva)	Mr Ole Neustrup	Deputy Head of Mission
82	Denmark, RC Society	Ms Maria Louise Clausen	Assistant
83	Denmark, RC Society	Ms Vibeke Ohl	Head of Tracing
84	Dokkyo University School of Medicine, Japan	Mr Mikio Mori	Director, Koshigaya Hospital (Professor, MD)
85	EAAF (Argentine Forensic Anthropology Team)	Mr Luis Fondebrider	Member of EAAF
86	Ecole spéciale militaire de Saint-Cyr, France	Mr Jérôme Cario	Chef de cours de droit des conflits armés (Lieutenant-Colonel)
87	Egypt, Permanent Mission (Geneva)	Mr Hany Selim	Counsellor
88	Egypt, RC Society	Mr Mamdouh Gabr	Secretary General (Doctor)
89	EPAF (Equipo Peruano de Antropología Forensic), Peru	Ms Carmen Rosa Cardoza	Comite Directive, Member
90	Eritrea, Ministry of Foreign Affairs	Ms Elsa Haile	Director, United Nations and International Organizations Division
91	Eritrea, Permanent Mission (Geneva)	Mr Bereket Woldeyohannes	Consul
92	Eritrea, RC Society	Ms Alganesh Kidane	Secretary General
93	Ethiopia, Ministry of Defence	Mr Gezu Shiferaw	Head of Secretariat of the Minister of Defence
94	Ethiopia, Permanent Mission (Geneva)	Mr Seleshi Mengesha	Counsellor
95	Ethiopia, RC Society	Mr Shimelis Adugna	President
96	European Commission, Permanent Delegation (Geneva)	Mr André Mollard	Attaché
97	Faculty of Philosophy, Department of Psychology, Novi Saad, Institute of Mental Health, Belgrade, Serbia and Montenegro	Ms Vesna Petrovic	Psychologist, Family psychotherapist
98	FAFG (Guatemalan Forensic Anthropology Foundation), Guatemala	Mr Fredy Peccerelli	Executive Director
99	FASIC (Fundación de Ayuda Social de las Iglesias Cristianas), Chile	Mr Claudio Gonzalez Urbina	Executive Secretary
100	FAVL (Fund Against the Violation of Law), Armenia	Ms Larisa Alaverdyan	
101	FEDEFAM (Latin American Federation of Associations for Relatives of the Detained - Disappeared)	Mr Patrick Rice	Adviser
102	FHR (Foundation for Human Rights in South Africa), South Africa	Ms Yasmin Sooka	Director
103	FIDH (International Federation for Human Rights)	Mr Magid Benchikh	Consultant
104	FIND (Families of Victims of Involuntary Disappearance), Philippines (the)	Mr Louie G. Crismo	Secretary General

The Missing  
International Conference of Governmental and Non-Governmental Experts  
Conference Acts

Nb	Country / Entity or Entity / Country	Name	Function
105	Finland, Permanent Mission (Geneva)	Ms Tanja Grén	Attaché
106	Finland, RC Society	Ms Kristiina Kumpula	Director
107	France, Ministry of Defense	Mr Sébastien Botreau-Bonneterre	Direction of Legal Affairs, Bureau "Droit des conflits armés"
108	France, Ministry of Foreign Affairs	Ms Béatrice D'Huart	Chargée de mission
109	France, Permanent Mission (Geneva)	Ms Virginie Bahnik	Second Secretary
110	France, Permanent Mission (Geneva)	Ms Catherine Calothy	Counsellor
111	France, Permanent Mission (Geneva)	Mr Bernard Kessedjian	Ambassador and Permanent Representative
112	France, Permanent Mission (Geneva)	Ms Severine Le Guevel	Second Secretary
113	France, Permanent Mission (Geneva)	Mr Emanuel Rousseau	Counsellor
114	France, RC Society	Ms Henriette Marodon	Responsable Recherches
115	Fundación Rigoberta Menchú Tum, Guatemala	Ms J. Patrice McSherry	Assistant
116	Fundación Rigoberta Menchú Tum, Guatemala	Mr Raul Molina-Mejia	New York Office Executive Director
117	Georgia, Ministry for Special Affairs	Mr Malkhaz Kakabadze	Minister
118	Georgia, State Commission of Searching of the Fighters Lost in Abkhazia and Reserving Rights of their Families	Mr Vladimir Doborjginidze	Vice-President
119	Georgia, State Commission of Searching of the Fighters Lost in Abkhazia and Reserving Rights of their Families	Ms Ketevan Merebovna Eremeishvili	Database manager
120	German Society of Legal Medicine, Germany	Mr Markus Rothschild	Professor Doctor
121	Germany, Federal Foreign Office	Ms Daniela Schlegel	DESU Officer, Public International Law Division
122	Germany, Permanent Mission (Geneva)	Mr Walter Lewalter	Ambassador and Permanent Representative
123	Germany, Permanent Mission (Geneva)	Ms Katharina Muscheler	Assistant
124	Germany, Permanent Mission (Geneva)	Ms Goenke Roscher	Counsellor
125	Germany, RC Society	Mr Klaus Mittermaier	Director
126	Government Office for Detained and Missing Persons, Croatia	Mr Davor Strinovic	Coordinator of Process of Identification (Professor Doctor, PHD)
127	Greece, Commission on the Implementation and Dissemination of International Humanitarian Law in Greece	Ms Maria-Daniella Marouda	Legal Officer
128	Greece, Ministry of Defense, General Army Headquarters, Commission on DNA Identification	Mr Charilaos Panagiotakos	Military Doctor (Colonel)
129	Greece, Ministry of Defense, General Army Headquarters, Commission on DNA Identification	Ms Teoni Triantafyllou	Psychologist
130	Greece, Ministry of Foreign Affairs	Ms Vassiliki Dikopoulou	First Counsellor
131	Greece, Ministry of Foreign Affairs	Ms Maria Kouroupi	Expert
132	Greece, Permanent Mission (Geneva)	Mr Tassos Kriekoukis	Ambassador and Permanent Representative
133	Greece, Permanent Mission (Geneva)	Ms Athena Makri	Second Secretary
134	Holy See (the), Permanent Mission (Geneva)	Mr Antoine Abi Ghanem	Attaché
135	HRCP (Human Rights Commission of Pakistan), Pakistan	Mr Kamran Arif	Vice-Chairman

The Missing  
International Conference of Governmental and Non-Governmental Experts  
Conference Acts

Nb	Country / Entity or Entity / Country	Name	Function
136	Hungary, RC Society	Ms Ilona Kucsma	Head
137	IBUKA, Rwanda	Mr Antoine Mugesera	President
138	ICJ (International Commission of Jurists)	Mr Federico Andreu-Guzman	Legal Adviser
139	ICMP (International Commission on Missing Persons)	Ms Kathyne Bomberger	Deputy Chief of Staff
140	ICMP (International Commission on Missing Persons)	Ms Kaudia Kuljuh	
141	ICMP (International Commission on Missing Persons)	Ms Asta Maria Zinbo	Director, Civil Society Initiatives, Family Association Development Program
142	ICRC - ITS (International Committee of the Red Cross - International Tracing Service, Arolsen)	Mr Charles Biedermann	Director
143	ICRC (International Committee of the Red Cross)	Mr Jean-David Chappuis	Deputy Director for International Law and Cooperation within the Movement
144	ICRC (International Committee of the Red Cross)	Ms Danielle Coquoz	Head, Central Tracing Agency and Protection Division
145	ICRC (International Committee of the Red Cross)	Mr Jacques Forster	Permanent Vice-President
146	ICRC (International Committee of the Red Cross)	Mr Jakob Kellenberger	President
147	ICRC (International Committee of the Red Cross)	Ms Françoise Krill	Deputy Director of Operations
148	ICRC (International Committee of the Red Cross)	Ms Antonella Notari	Spokesperson, Head, Media Relations
149	ICRC (International Committee of the Red Cross)	Mr Yves Sandoz	Member of the ICRC, Chairman of the Conference
150	ICRC (International Committee of the Red Cross)	Mr Jacques Stroun	Director of Human Resources
151	ICRC (International Committee of the Red Cross)	Mr Jean-Daniel Tauxe	Head, External Resources Division
152	IHFFC (International Humanitarian Fact-Finding Commission)	Mr Marcel Dubouloz	Member (Doctor, MD)
153	IICI (Institute for International Criminal Investigations)	Mr Raymond McGrath	President
154	India, Permanent Mission (Geneva)	Mr Nawrag Stivastana	Third Secretary
155	Indonesia, Komnas HAM (National Commission on Human Rights)	Mr Mohamad M. Billah	Chairman, Sub-Commission of Human Rights Monitoring
156	Indonesia, Permanent Mission (Geneva)	Mr Ade Padmo Sarwono	First Secretary
157	Indonesia, RC Society	Mr Iyang D. Sukandar	Secretary General
158	INSEC (Informal Sector Service Centre), Nepal	Mr Subodh Raj Pyakurel	General Secretary
159	Institute of Forensic Medicine, Serbia and Montenegro	Mr Djordje Alempijevic	Forensic pathologist (Doctor)
160	International Federation (International Federation of the Red Cross and Red Crescent Societies)	Mr Didier Cherpitel	Secretary General
161	International Federation (International Federation of the Red Cross and Red Crescent Societies)	Mr Christopher Lamb	Head, Humanitarian Advocacy Department
162	International Federation (International Federation of the Red Cross and Red Crescent Societies)	Ms Mebrat Wolde Tensaie	Officer, Principles and value Department
163	International Federation, Reference Centre for Psychological Support	Ms Janet Rodenburg	Director
164	IOM (International Organization for Migration)	Mr Richard Perruchoud	Legal adviser, Executive Officer
165	Iran (Islamic Republic of), RC Society	Mr Ali Artan	Head of Law and Principles Office



The Missing  
International Conference of Governmental and Non-Governmental Experts  
Conference Acts

Nb	Country / Entity or Entity / Country	Name	Function
166	Iraq, Ministry of Foreign Affairs	Ms Khilood A. Abdul Jabbar	Second Secretary, Legal Department & Permanent Committee for War Victims
167	Iraq, Ministry of Foreign Affairs	Mr Ibrahim M. Al-Aqidi	Head of the Technical Sub-Committee on Iraqi and Kuwaiti missing persons
168	Iraq, Ministry of Foreign Affairs	Mr Sahib Abbas Majeed	Second Secretary
169	Iraq, Permanent Mission (Geneva)	Mr Mohammed S. Mejid	Second Secretary
170	Iraq, RC Society	Mr Anwar Kareem Al Masraf	Executive Board Member, Responsible for Tracing Program (Doctor)
171	IRCT (International Rehabilitation Council for Torture Victims)	Ms Margriet Blaauw	MD, Medical Consultant
172	Ireland, Permanent Mission (Geneva)	Mr Brian Cahalane	First Secretary
173	Ireland, Permanent Mission (Geneva)	Ms Mary Whelan	Ambassador and Permanent Representative
174	ISHR (International Service for Human Rights)	Mr Morris Tidball-Binz	Director (Doctor)
175	Israel, Ministry of Foreign Affairs	Mr Yona Baumel	
176	Israel, Ministry of Health, The National Center of Forensic Medicine	Mr Jehuda Hiss	Director, Forensic Pathologist (Professor, MD)
177	Israel, Permanent Mission (Geneva)	Mr Tuvia Israeli	Deputy Permanent Representative
178	Israel, Permanent Mission (Geneva)	Mr Yaakov Levy	Ambassador and Permanent Representative
179	Italy, Permanent Mission (Geneva)	Mr Alberto Cutillo	First Counsellor
180	IUED (Geneva Graduate Institute of Development Studies), Switzerland	Mr Yvan Droz	Associate Professor (Professor)
181	Japan, Permanent Mission (Geneva)	Mr Yukito Okada	Second Secretary
182	Japan, RC Society	Mr Kiyoshi Igarashi	Director, Planning and Coordination Division, International Relations Department
183	Jordan, Permanent Mission (Geneva)	Ms Saja Majali	Second Secretary
184	Jordan, RC Society	Mr Mohammed M. Al-Hadid	President (Doctor)
185	JPC (Catholic Justice and Peace Commission), Liberia	Mrs Frances Johnson Morris	National Director
186	Kenya, Ministry of Defence, Department of Defence	Mr Titus K. Githiora	Chief of Legal Services (Brigadier General)
187	Kenya, RC Society	Mr Abdulkadir Farid	Director, Disaster Preparedness and Response
188	KONTRAS (The Commission of Disappearances and Victims of Violence) , Indonesia	Mr Makaarim Al-Akhlaq	(Mufti)
189	Kosovo Parliamentary Commission on Missing Persons	Ms Flora Brovina	President
190	Kosovo Parliamentary Commission on Missing Persons	Ms Fisnik Xhaferi	Interpreter
191	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Saeed Hussein Abdullah	
192	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Rabea Al-Adsani	
193	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Duaij Al-Anzi	

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

<b>Nb</b>	<b>Country / Entity or Entity / Country</b>	<b>Name</b>	<b>Function</b>
194	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Khaled Mufleh Al-Dosari	
195	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Ali Hasan Al-Qasr	
196	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Salem Sabah Al-Salem Al-Sabah	Chairman (Sheikh)
197	Kuwait, Council of Ministers, National Commission for Missing persons and P.O.W's Affairs	Mr Ibrahim Al-Shaheen	(Doctor)
198	Kuwait, Permanent Mission (Geneva)	Mr Abdullah Al-Askar	First Secretary
199	Kuwait, Permanent Mission (Geneva)	Mr Sadiq Marafi	Second Secretary
200	Kuwait, Permanent Mission (Geneva)	Mr Dharar Abdul-Razzaq Razzooqi	Ambassador and Permanent Representative
201	League of Arab States, Permanent Mission (Geneva)	Mr Osman El Hajje	Attaché
202	League of Arab States, Permanent Mission (Geneva)	Mr Abdallah Ould Babaker	Minister Counsellor
203	Lebanon, Parliament	Ms Didne Mecattaf	Assistant
204	Lebanon, Parliament	Mr Ghassan Moukheiber	Member
205	Lebanon, Permanent Mission (Geneva)	Ms Rola Noureddine	First Secretary
206	Libyan Arab Jamahiriya (the), Permanent Mission (Geneva)	Mr Lufti Alamin Mughrabi	Political Counsellor
207	Libyan Arab Jamahiriya (the), RC Society	Mr Ali Tlouba	Responsible, Tracing Service
208	Linking Solidary (Humanist Committee on Human Rights, Project Linking Solidarity), Netherlands (the)	Mr Ewoud A. Plate	Senior Project Officer
209	LTDH (Ligue Togolaise des Droits de l'Homme), Togo	Mr Kofimessa Afeli Devotsou	President
210	Luxembourg, Permanent Mission (Geneva)	Mr Marc Henri Godefroid	First Secretary
211	Madres de Plaza de Mayo - Linea Fundadora, Argentina	Ms Laura Conte	Founder, Member and Psychologist
212	Malaysia, RC Society	Mr Johan Bin Shamsuddin	Secretary General
213	Medica Zenica, Bosnia and Herzegovina	Ms Mirha Pojskic	Executive Director
214	Medica Zenica, Bosnia and Herzegovina	Ms Zerina Zukic	Interpreter
215	Mémoire pour l'Avenir, Lebanon	Ms Amal Makarem	Spokesperson
216	Memorial, Russian Federation (the)	Mr Alexandre Tcherkassov	Member of Council
217	Mexico, National Commission for Human Rights	Mr Raul Plascencia Villanueva Serrano Pérez	Segundo Visitador General
218	Mexico, PGR (Procuraduria General de la Republica)	Mr Ignacio Carrillo Prieto	Fiscal Especial para movimientos sociales y politicos del pasado
219	Mexico, PGR (Procuraduria General de la Republica)	Ms Maria del Carmen Comandini	Assistant
220	Mexico, PGR (Procuraduria General de la Republica)	Mr Enrique Ramirez Gomez	Director de DRAEA
221	Miguel Agustin Pro Juarez Human Rights Center, Mexico	Ms Thalia Vega Grimaldo	International Relations Associate
222	Ministry of Defense, Center of forensic medicine and criminalistic examination, Russian Federation (the)	Mr Sergey Glebovich Kharlamov	Chief manager of molecular genetic laboratory (Doctor)
223	Morocco, CCDH (Conseil Consultatif des Droits de l'Homme)	Mr Abdelaziz Ben Zakkour	Bâtonnier

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

<b>Nb</b>	<b>Country / Entity or Entity / Country</b>	<b>Name</b>	<b>Function</b>
224	Morocco, CDIFDH (Centre de Documentation, d'Information et de Formation en Droits de l'Homme)	Mr El Habib Belkouch	Director
225	Morocco, Permanent Mission (Geneva)	Mr Azzedine Farhane	Counsellor
226	Mothers of Srebrenica and Zepa enclaves, Bosnia and Herzegovina	Ms Natasa Miskin	Interpreter
227	Mothers of Srebrenica and Zepa enclaves, Bosnia and Herzegovina	Ms Munira Subasic	President
228	Mozambique, RC Society	Mr Sinai Nhatitima	President
229	National Human Rights Center of Liberia, Liberia	Mr. Blamoh A. Sieh	National Coordinator
230	NATO, Headquarters Allied Command Europe Rapid Reaction Corps (HQ ARRC)	Mr Colin Nobbs	Lieutenant Colonel, UK Army, Chief G1
231	Nepal, NHRC (National Human Rights Commission)	Mr Gouri Shankar Lal Das	Member
232	Netherlands (the), Ministry of Foreign Affairs	Ms Liesbeth Lijnzaad	Deputy Head of the International Law Department (Doctor)
233	Netherlands (the), Permanent Mission (Geneva)	Mr B. Eeuwke Faber	Second Secretary
234	Netherlands (the), RC Society	Ms Marjolein Bosch	Acting Head, Tracing Service
235	Netherlands (the), RC Society	Mr Yo Maes	Policy Manager, Product Level, Organization and Tracing
236	Netherlands (the), RC Society	Ms Johanna van Sambeek	International Secretary
237	Norway, Permanent Mission (Geneva)	Mr Per Tyar Lied	First Secretary
238	Norway, RC Society	Ms Kirsten Nilsen	Head of the Tracing Service
239	NSHR (National Society for Human Rights), Namibia	Mr Phil ya Nangoloh	Executive Director
240	ODHAG (Oficina de Derechos Humanos del Arzobispado de Guatemala), Guatemala	Mr Oscar Reyes	Missing Childhood Project Coordinator
241	OIC (Organization of the Islamic Conference), Permanent Delegation (Geneva)	Mr Jafar Olia	Acting permanent Observer
242	OMCT (World Organisation Against Torture)	Ms Isabel Ricupero	Programme Manager
243	OSA (Open Society Archives)	Mr Ivan Szekely	Counsellor
244	Palestine Red Crescent Society	Mr Younis Al-Khatib	President
245	Parents of servicemen missing in action, Sri Lanka	Ms Yvonne Visaka Dharmadasa	President
246	Peru, Defensoria Del Pueblo	Mr Walter Jorge Alban Peralta	Ombudsman of Peru
247	Peru, Ministerio Publico, Fiscalia de la Nacion	Ms Nelly Calderon Navarro	Fiscal de la Nación
248	Peru, Ministerio Publico, Fiscalia de la Nacion	Ms Sonia Guillen	Asesora
249	Peru, Ministry of Foreign Affairs	Mr Carlos Manuel Roman Herrera	Director, Direccion de Derechos Humanos y Asuntos Sociales
250	Peru, Permanent Mission (Geneva)	Mr Juan Pablo Vegas	First Secretary
251	Peru, Permanent Mission (Geneva)	Mr Jorge Voto-Bernales	Ambassador and Permanent Representative
252	Peru, Truth and Reconciliation Commission	Mr Javier Ciurlizza Contreras	Executive Secretary
253	Philippines (the), RC Society	Ms Lourdes Casas Quezon	Vice-Chairman, International Affairs Committee

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

<b>Nb</b>	<b>Country / Entity or Entity / Country</b>	<b>Name</b>	<b>Function</b>
254	PHR (Physicians for Human Rights)	Mr William D. Haglund	Director, International Forensic Program (Doctor)
255	PHR (Physicians for Human Rights)	Mr Leonard Rubenstein	Executive Director
256	Portugal, Permanent Mission (Geneva)	Mr Fernando Demée de Brito	First Secretary
257	Pro-Búsqueda (Asociacion Pro-Búsqueda), El Salvador	Mr Jon Cortina	Director (Padre)
258	Republic of Korea (the), RC Society	Mr Gu-Soon Kwon	Officer
259	Republic of Korea (the), RC Society	Mr Byung-Hak Yoon	Senior Officer
260	Russian Federation (the), Ministry of Defence	Mr Georg Ivanovich Arbuzov	Law Department
261	Russian Federation (the), Ministry of Foreign Affairs	Mr Sergey Shestakov	Deputy Director, Legal Department
262	Russian Federation (the), Permanent Mission (Geneva)	Mr Sergey Chumarev	Second Secretary
263	Russian Federation (the), Permanent Mission (Geneva)	Ms Zhanna KharKhan	Second Secretary
264	Russian Federation (the), RC Society	Mr Igor Shirokov	Head, International Department
265	Rwanda, RC Society	Mr Bernard Nzigiyie	Vice-President
266	San Remo Institute, Russian Federation (the)	Mr Nikolai Rumiantsev	Head of Training Course
267	Saudi Arabia, Ministry of Defense and Aviation	Mr Mohammed Al-Nasr	Interpreter
268	Saudi Arabia, Ministry of Defense and Aviation	Mr Atteyah ben Abdel Hameed Al-Touwri	Director of Joint Forces Affairs
269	Saudi Arabia, Ministry of Foreign Affairs	Mr Ali Abdullah Ba Haitham	Second Secretary
270	SCF (Save the Children Fund)	Ms Kamela Usmani	Policy Officer Separated Children
271	Serbia and Montenegro, Commission for Humanitarian Affairs and Missing Persons	Ms Zorica Avramovic	Interpreter
272	Serbia and Montenegro, Commission for Humanitarian Affairs and Missing Persons	Mr Maksim Korac	President
273	Serbia and Montenegro, Coordination Center for Kosovo and Metohija	Ms Sandra Ilic	Head of Cabinet of the President of the Co-ordination Centre for Kosovo and Metohija of the Federal Republic of Yugoslavia and the Republic of Serbia
274	Serbia and Montenegro, ORDMP - Cabinet of the President	Mr Gradimir Nalic	
275	Serbia and Montenegro, Permanent Mission (Geneva)	Ms Dusanka Divjak-Tomic	Minister Councillor
276	Serbia and Montenegro, Permanent Mission (Geneva)	Ms Marina Ivanovic	Second Secretary
277	Serbia and Montenegro, Permanent Mission (Geneva)	Mr Milorad Scepanovic	Ambassador and Permanent Representative
278	Serbia and Montenegro, RC Society	Mr Milovan Jankovic	Secretary General
279	Serbia and Montenegro, RC Society	Mr Marmut Ruza	Interpreter
280	Sierra Leone, RC Society	Mr Arthur de Winton Cummings	Secretary General
281	SOLIDE (Support of Lebanese in Detention and Exile), Lebanon	Mr Jihad Robert Aad	Assistant
282	SOLIDE (Support of Lebanese in Detention and Exile), Lebanon	Mr Ghazi Robert Aad	President
283	Somalia, RC Society	Mr Ahmed Mohamed Hassan	President (Doctor)
284	South Africa, Permanent Mission (Geneva)	Ms Laura Joyce	First Secretary

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

<b>Nb</b>	<b>Country / Entity or Entity / Country</b>	<b>Name</b>	<b>Function</b>
285	South Africa, RC Society	Ms Mandisa Kalako-Williams	President
286	Spain, Ministry of Foreign Affairs	Mr Emilia Pin Godos	Legal Adviser
287	Spain, Ministry of Interior	Mr José Luis Gonzáles Más	Comisaria, Policia Cientifica, Inspector Jefe Seccion Antropologia Forense
288	Spain, Permanent Mission (Geneva)	Ms Cristina Diaz	Counsellor
289	Spain, Permanent Mission (Geneva)	Mr Joaquín Perez-Villanueva y Tovar	Ambassador and Permanent Representative
290	Spain, RC Society	Ms Nieves Alonso Cemillán	Tracing and International Social Service
291	Sri Lanka, (None)	Mr Yasantha Kodagoda	Public Prosecutor
292	Sri Lanka, President Office, Human Disaster Management Council	Mr David Ratnavale	Chairman (Doctor)
293	Sri Lanka, RVSA (Rana Viru Seva Authority)	Ms Visaka Uteni Dissanayake	Project Officer (Doctor)
294	Standing Commission of the Red Cross and Red Crescent	Ms Helena Korhonen	Secretary
295	Sweden, Ministry for Foreign Affairs	Mr Harald Hamrin	
296	Sweden, Permanent Mission (Geneva)	Ms Kristina Hulting	Intern
297	Sweden, Permanent Mission (Geneva)	Mr Niklas Kebbon	Counsellor
298	Sweden, Permanent Mission (Geneva)	Mr Johan Molander	Ambassador and Permanent Representative
299	Sweden, Permanent Mission (Geneva)	Ms Ulrika Sundberg	Minister
300	Sweden, RC Society	Ms Asa Jansson	Coordinator, International Law and Refugee Department
301	Sweden, RC Society	Ms Asa Molde	Member of the Central Board
302	Switzerland, Federal Department of Foreign Affairs	Mr Daniel Derzic	Directorate of Public International Law, Section for Human Rights and Humanitarian Law
303	Switzerland, Federal Department of Foreign Affairs	Ms Nicole Hitz	Directorate of Public International Law, Section for Human Rights and Humanitarian Law
304	Switzerland, Federal Department of Foreign Affairs	Mr Thomas Kupfer	
305	Switzerland, Federal Department of Foreign Affairs	Mr Arthur Mattli	Head of Section, Human Rights and Humanitarian Law
306	Switzerland, Federal Department of Foreign Affairs	Mr Nicolas Michel	Director, Directorate of Public International Law, Chairman of the Working Group of the Conference
307	Switzerland, Permanent Mission (Geneva)	Mr Jean-Marc Boulgaris	Ambassador and Permanent Representative
308	Switzerland, Permanent Mission (Geneva)	Mr Jean-Daniel Vigny	Minister, Humanitarian Affairs
309	Switzerland, Permanent Mission (Geneva)	Ms Ivana Wagner	Counsellor, Humanitarian Affairs
310	Syrian Arab Republic (the), Permanent Mission (Geneva)	Mr Hussein Ali	Third Secretary
311	Syrian Arab Republic (the), RC Society	Mr Marwan Abdullah	Director
312	Tajikistan, Ministry of Foreign Affairs	Mr Nuriddin Shamsov	Head of Department of International Organization
313	Thailand, Permanent Mission (Geneva)	Ms Phantipha Iamsudha	First Secretary
314	The Guardian Association for Persons Arrested and Disappeared in North, Sri Lanka	Ms Kowry Velsamy	Treasurer

The Missing  
International Conference of Governmental and Non-Governmental Experts  
**Conference Acts**

<b>Nb</b>	<b>Country / Entity or Entity / Country</b>	<b>Name</b>	<b>Function</b>
315	The Raoul Wallenberg Honorary Citizen Committee, Israel	Mr Max Grunberg	Chairman
316	TPO (Transcultural Psychosocial Organization)	Mr Joop de Jong	Director (Professor, MD, PHD)
317	TRC (Truth and Reconciliation Commission South Africa), South Africa	Mr Richard Lyster	Commissioner
318	Turkey, Ministry of Foreign Affairs	Mr Küstem Tatar	Adviser
319	Turkey, Permanent Mission (Geneva)	Mr Ugur Dogan	Minister Counsellor, Deputy Permanent Representative
320	Turkey, Permanent Mission (Geneva)	Mr Zeki Gazioglu	Counsellor
321	Turkey, Permanent Mission (Geneva)	Mr Tolga Kaya	Second Secretary
322	Turkey, Permanent Mission (Geneva)	Mr Türkekul Kurttekin	Ambassador and Permanent Representative
323	Turkey, Permanent Mission (Geneva)	Mr Hüsrev Unler	Counsellor
324	UN ICTY (United Nations - International Criminal Tribunal for the former Yugoslavia)	Mr Dennis Milner	Deputy Chief of Investigations
325	UN OCHA (United Nations - Office for the Coordination of Humanitarian Affairs)	Ms Elisabeth Byrs	External Relations
326	UN OHCHR (Office of the United Nations High Commissioner for Human Rights)	Mr Javier Leoz	Consultant
327	UN OHCHR (Office of the United Nations High Commissioner for Human Rights)	Mr Tiyanjana Maluwa	Legal Adviser
328	UN OHCHR (Office of the United Nations High Commissioner for Human Rights)	Ms Benedetta Odorisio	Human Rights Officer
329	UN OHCHR (Office of the United Nations High Commissioner for Human Rights)	Mr Roberto Ricci	Policy Planning and Methodology Team, Human Rights Officer
330	UN OHCHR (Office of the United Nations High Commissioner for Human Rights)	Mr Sergio Vieira de Mello	High Commissioner for Human Rights
331	UNHCR (United Nations High Commissioner for Refugees)	Mr Patrick Tigere	Legal Adviser, Protection Operations Support Section, Department of International Protection
332	UNICEF (United Nations Children's Fund)	Mr Christian Skoog	Programme Officer Humanitarian Affairs, EMOPS
333	United Kingdom of Great Britain and Northern Ireland (the), Ministry of Defense	Ms Barbara Cooper	Deputy Director, Service Personnel Policy (Welfare and Families)
334	United Kingdom of Great Britain and Northern Ireland (the), Permanent Mission (Geneva)	Mr Edward Inglett	Humanitarian Affairs Attache
335	United Kingdom of Great Britain and Northern Ireland (the), Permanent Mission (Geneva)	Mr Bob Last	Human Rights Attache
336	United Kingdom of Great Britain and Northern Ireland (the), Permanent Mission (Geneva)	Ms Susan Mc Crory	Legal Adviser
337	United Kingdom of Great Britain and Northern Ireland (the), Permanent Mission (Geneva)	Mr Matthew Middlemiss	First Secretary

The Missing  
International Conference of Governmental and Non-Governmental Experts  
Conference Acts

Nb	Country / Entity or Entity / Country	Name	Function
338	United Kingdom of Great Britain and Northern Ireland (the), RC Society	Mr Nev Jefferies	Refugee Services / International Tracing and Message Services
339	United States of America (the), Department of Defense	Mr Adrian Cronauer	Assistant to the Director of the Defense POW/MIA Office in the Office of the Secretary of Defense
340	United States of America (the), Department of Defense	Mr James Gravelle	General Counsel in the Defense POW/MIA Office in the Office of the Secretary of Defense
341	United States of America (the), Permanent Mission (Geneva)	Ms Piper Campbell	Refugee Officer
342	United States of America (the), Permanent Mission (Geneva)	Mr T. Michael Peay	Legal Adviser
343	United States of America (the), RC Society	Mr Thomas C. Corl	International Family Tracing Services, Director
344	Université du Québec à Montréal, Canada	Mr Marco Sassoli	Professor, Public International Law
345	University of California - Human Rights Center, United States of America (the)	Mr Eric Stover	Director (Professor)
346	University of Dundee, United Kingdom of Great Britain and Northern Ireland (the)	Mr Derrick J. Pounder	Professor of Forensic Medicine
347	UNMIK (United Nations Interim Administration Mission in Kosovo)	Mr Jose Pablo Baraybar	Head of the Office on Missing Persons and Forensics
348	UNMIK (United Nations Interim Administration Mission in Kosovo)	Ms Valérie Brasey	Chief Outreach, Office on Missing Persons and Forensic
349	VERITAS (Centre for Collecting Documents and Information), Serbia and Montenegro	Ms Dragana Kojic	Interpreter
350	VERITAS (Centre for Collecting Documents and Information), Serbia and Montenegro	Mr Savo Strbac	President
351	Viet Nam, Permanent Mission (Geneva)	Mr Huy Tan Vu	Counsellor
352	Viet Nam, RC Society	Mr Dang Minh Chau	International Relations and Development Department
353	Working Group for the Tracing of Missing Persons and Hostages and for the Release of Prisoners of the Karabakh Conflict, Germany	Mr Bernhard Clasen	
354	Yemen, Permanent Mission (Geneva)	Mr Adul-Latif Al-Doraibi	
355	Yemen, SNCHR (Supreme National Committee for Human Rights)	Mr Ghassan Hashim	Member, Director General, Ministry of State for Human Rights