



# General Assembly

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## Human Rights Council

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### Human rights situations that require the Council's attention

## **Written statement\* submitted by Institut International pour les Droits et le Développement, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 January 2024]

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\* Issued as received, in the language of submission only.



## **Missing Persons and International Humanitarian Law Khojaly Case**

Khojaly is indeed a town in Azerbaijan that was occupied by Armenian forces in February 1992 during the Nagorno-Karabakh conflict. The event is known as the Khojaly Massacre, where hundreds of Azerbaijani civilians were killed. It remains a significant and contentious issue in the region. Before the occupation, the town boasted dozens of cultural facilities, museums, colleges, schools, clinics, hospitals, agricultural and industrial facilities, and other public entities. Khojaly had two primary and one high school and a textile plant.

Razed to the ground across the district were: 1 town, 1 township, 6 villages, 2495 residential houses, 31 industrial facilities, 15 agricultural facilities, 5 communication entities, 20 education facilities, 14 clinics/hospitals, 56 cultural facilities etc.

Late in 1987, Armenia launched an aggression against Azerbaijan to unilaterally break away and annex the mountainous part of Karabakh. Military actions against Azerbaijan intensified in late 1991 and early 1992. A town with 7,000 population before the conflict, Khojaly was a target of one such operation.

Armenian forces completely surrounded the town in October 1991. The land communication was severed on 30 October; one could only reach the town by helicopters. This route, however, was cut off not long after. A civil helicopter was shot down over Shusha, killing 40 people, the flights were stopped.

In the 1990s, Azerbaijan endured a profound tragedy during the “First Karabakh War”, where 20% of its internationally recognized territory fell under occupation by Armenian armed forces. This resulted in the disappearance of nearly four thousand Azerbaijani citizens, including civilians, soldiers, children, women, and the elderly. The devastating consequences of military aggression include over seven hundred civilians who vanished, leaving behind heartbroken families. In some instances, entire families were lost, compounding the anguish experienced by those affected.

International humanitarian law, particularly the Geneva Conventions of 1949, unequivocally recognizes the right of families to receive information about missing persons during armed conflicts. However, for over three decades, Armenia has refused to provide information about the missing Azerbaijanis, causing prolonged torment and suffering. The denial of this basic right has led to countless parents passing away with the yearning for their missing children, clutching onto photographs, while children grow up imagining their missing parents based solely on stories.

The consequences of Armenia's military aggression are staggering. Occupied territories suffered vandalism and looting, cities and villages were destroyed, and people faced genocide and ethnic cleansing. Approximately one million Azerbaijani citizens became refugees and internally displaced persons, with 20 thousand losing their lives and 50 thousand their health.

During the “First Karabakh War”, 3890 people were registered as missing, including 3171 soldiers and 719 civilians. Among them were 71 minors, 267 women, and 326 elderly individuals. Tragically, 872 people, including 29 children, 98 women, and 112 elderly people, were taken hostage or remained in the occupied territories, as confirmed by witness statements.

In September 2020, the Azerbaijani Army's counter-offensive operation, responding to Armenian provocations, led to the liberation of the land and the implementation of UN resolutions from 1993. Despite this, the excessive pollution of the territories during the occupation prevents the return of displaced people, including those with missing family members. Armenia's refusal to provide accurate mine maps or information about mass graves has resulted in over 300 Azerbaijani citizens becoming victims of mine explosions in the last three years.

Recent initiatives by Azerbaijani institutions, including collecting biological samples, extracting DNA profiles, and conducting excavations in liberated territories, offer hope in clarifying the fate of the missing. However, the discovery of nine mass graves, including locations like Bashlibel, Edilli, Farrukh, Dashalti, Shusha, and Saricali, is heart-wrenching. Mass killings and inhumane burials defy human values and epitomize brutality.

### **The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)**

Regrettably, adequate measures to prevent disappearances and provide vital information have not been taken in recent conflicts. Until recently this “hidden tragedy” as the ICRC has called it did not attract sufficient attention from the international community.

The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) was adopted by General Assembly resolution A/RES/61/177 in December 2006 and came into force on 23 December 2010. Countries that ratify the Convention agree to be legally bound by it and are called State parties.

The Convention includes terms that:

- Provide that no one shall be subject to enforced disappearance without exception, even in time of war or other public emergency
- Oblige States parties to criminalize enforced disappearance and make it a punishable offence
- Provide that enforced disappearance constitutes a crime against humanity when practiced in a widespread or systematic manner
- Oblige States to search for disappeared persons, investigate their disappearance, and provide victims with access to justice and reparation
- Oblige States to afford one another the greatest measure of mutual legal assistance and cooperation for the search and investigation
- Prohibit secret detention
- Oblige State parties to guarantee minimum legal standards around the deprivation of liberty, such as maintaining official registers of persons deprived of liberty with minimum of information and authorizing them to communicate with their family, counsel, or any other person of their choice.

The Convention is the first universally legally binding human rights instrument concerning enforced disappearance. It was preceded by the Declaration on the Protection of All Persons from Enforced Disappearance (1992 Declaration), proclaimed by the General Assembly in its Resolution 47/133 of 18 December 1992, which remains a valid reference as a body of principles for all States and some of its provisions reflect customary international law on the subject

### **Conclusion:**

In light of these circumstances, we earnestly call upon Armenia to fulfill its humanitarian obligations and provide information on the fate of the missing persons. It is a plea for justice, closure, and a step towards healing the wounds inflicted by the tragic events of the “First Karabakh War”.

The ongoing issue of missing servicemen from the Armed Forces of Azerbaijan during the Patriotic War adds another layer of sorrow to an already tragic situation. The uncertainty surrounding the fate of these six servicemen compounds the emotional distress experienced by their families and the nation as a whole. Each missing individual represents a story of sacrifice and dedication to their homeland.

The families of these servicemen endure the anguish of not knowing the whereabouts or conditions of their loved ones. This uncertainty hampers the healing process and prolongs the grief, as families grapple with the absence of crucial information about the fate of their relatives.

In the spirit of international humanitarian law and the principles outlined in the Geneva Conventions, the right of families to receive information about missing persons during armed conflicts is a fundamental aspect of human rights. The appeal for Armenia to provide information on the missing persons is not only a plea for justice for those affected by the “First Karabakh War” but also extends to those missing during the Patriotic War.

It is a collective call for transparency, accountability, and a shared commitment to humanity, urging all parties involved to work towards resolving the fates of the missing servicemen. This acknowledgment of the missing individuals during the Patriotic War emphasizes the ongoing impact of conflict on the lives of individuals and communities, reinforcing the importance of addressing these issues to foster healing and reconciliation in the region.

In war, many people go missing, causing anguish and uncertainty for their families and friends. People have the right to know what happened to their missing relatives. Governments, the military authorities and armed groups have an obligation to provide information and assist efforts to put families back together.

Institut International pour les Droits et le Développement (IRDG) is calling for the right to know the fate of missing people already enshrined in international humanitarian and human rights law. concrete measures should take to prevent disappearances such as respecting and protecting civilians and managing information on people properly. respecting and protecting civilians and managing information on people properly.

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