



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/83
3 February 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 14 (d) of the provisional agenda

**SPECIFIC GROUPS AND INDIVIDUALS: OTHER VULNERABLE
GROUPS AND INDIVIDUALS**

Missing persons

Report of the Secretary-General*

Summary

The present report contains a summary of the replies received from Governments and an international humanitarian organization pursuant to resolution 2002/60 of the Commission on Human Rights.

* The report was submitted after the deadline in order to incorporate the replies received.

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Introduction

1. In its resolution 2002/60, the Commission on Human Rights requested the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations bodies, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to report to the Commission at its sixtieth session. In document E/CN.4/2004/72, the Commission was informed that the report on the implementation of resolution 2002/60 would be submitted at its sixty-first session. The present report, which was prepared in accordance with resolution 2002/60, contains a summary of the replies received.

2. In response to a note verbale dated 6 December 2004, information was received from the Governments of Azerbaijan, Lebanon and the Philippines. In response to a letter sent to various organizations on 6 December 2004, the International Committee of the Red Cross provided comments.

I. REPLIES RECEIVED FROM GOVERNMENTS

3. The Government of **Azerbaijan** stated that the problem of missing persons is one of the main tragic consequences of the aggression perpetrated by Armenia against Azerbaijan, which resulted in the occupation of 20 per cent of its territory and emergence of more than 1 million Azerbaijani refugees and internally displaced persons. According to the figures available as of 1 June 2004, 4,866 Azerbaijani missing persons were registered in the country. The State Commission of the Republic of Azerbaijan on Prisoners of War, Hostages and Missing Persons and its working group were established in 1993 to search for Azerbaijani missing persons and hostages as well as to seek their release. The activity of the State Commission is guided by the norms of international law, especially by the Geneva Conventions of 12 August 1949 and the relevant resolutions adopted at the initiative of Azerbaijan by the Commission on Human Rights and by the General Assembly. The State Commission is responsible to the President of the Republic of Azerbaijan.

4. The Government said that the State Commission has been maintaining close cooperation with all relevant international organizations, including the International Committee of the Red Cross (ICRC), as well as an international working group composed of human rights defenders from Russia, Germany and Georgia. Additionally, considerable measures have been taken to collect and analyse the relevant information and to create a comprehensive database on missing persons. Nevertheless, a comparison of the lists prepared by the State Commission and the ICRC is still pending. Furthermore, the main attention has focused on providing families with information on the fate of their missing relatives. The Government noted that the Azerbaijani side had ensured the return of all Armenian prisoners of war to Armenia before the adoption of resolution 2002/60.

5. The Government further stated that efforts to activate the search for the missing persons have not yielded positive results due to the lack of a constructive position on the part of the Republic of Armenia. According to testimonies of persons released from captivity, around 783 Azerbaijani citizens remain in captivity in Armenia. While some of these missing persons

were visited by the ICRC, Armenia continues to conceal the real situation from the international organizations. According to the Government, this attitude is due to the fact that the majority of Azerbaijani missing persons were killed or otherwise ill-treated while in captivity.

6. The Government stated that it has made every effort to solve this problem. In March 1993, following the agreement between the representatives of Azerbaijan and Armenia, Azerbaijan prepared four draft documents on the matter to be signed in Geneva. The Armenian side, unfortunately, declined to sign these documents. In December 1999, Azerbaijan introduced a new initiative in the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe, stressing the importance of resolving the problem in accordance with the Geneva Conventions. According to the Government, Armenia has not responded to these proposals.

7. The Government concluded by stating that it will undertake all measures at its disposal to address the fate of the Azerbaijani missing persons. As Azerbaijan has not been able to visit the occupied territories, it expects the ICRC and other international organizations to intensify their activity in that domain. The Government considers that concrete effective measures should be taken in terms of Armenian actions aimed at concealment of captivity and impediment of the search process. The Government expressed its hope that the international community, and especially the ICRC, will demonstrate a more sensitive approach to the problem. It stated that it will strictly observe the provisions of international law and continue its efforts aimed at identifying the fate of persons reported as missing. The Government referred to a Plan of Action for 2005 which, inter alia, stipulates that the joint submission of proposals to the State Commission by its working group and the ICRC Baku Office will constitute one of its core activities.

8. The Government of **Lebanon** stated that it is fully engaged with regard to resolution 2002/60 and has deployed serious efforts to resolve the issue of missing persons, despite certain difficulties. These difficulties stem from the circumstances surrounding the abductions and killings during the events which the country experienced during 1975 to 1990 and since then.

9. The Government confirmed that the issue of missing persons continues to be followed up and actively pursued by the committee established by the Government on 5 January 2002. Its task is to collect requests from the relatives of missing persons and investigate each case. At the conclusion of its work, the committee is expected to submit a report to the Council of Ministers.

10. The Government of the **Philippines** stated that it has always been at the forefront of the international struggle for the promotion of international humanitarian law (IHL). In line with its commitment to the Geneva Conventions of 1949 as well as resolution 2002/60, the Philippines strictly observes the terms of its IHL agreements with opposition groups in the country, more particularly the National Democratic Front (NDF) and the Moro Islamic Liberation Front (MILF).

11. The Government said that the Comprehensive Agreement on the Respect of Human Rights and International Humanitarian Law (CAHRIL) reaffirms its commitment and that of the NDF to adhere to and be bound by the generally accepted principles and standards of IHL. Both parties commit to treat humanely "all persons who had been deprived of their liberty". Both parties also provide mutual assurances that they will provide to the other "sufficient information

... concerning persons who had been deprived of their liberty”. Under the agreement, the parties commit to cooperate fully with the ICRC in facilitating the latter’s work in accordance with its mandate and to ensure full access for visits to detained persons in accordance with the ICRC standard operating procedures. The parties also pledge full cooperation with the tracing mechanism of the ICRC in determining the identity, whereabouts, and fate of missing persons. The Joint Monitoring Committee, composed of representatives from both the Government of the Philippines and the NDF, monitors the implementation of CAHRIL.

12. The Government further stated that the Government of the Philippines-MILF Peace Agreement of 2001 (Tripoli Agreement) is a manifestation of its commitment and that of MILF to safeguard the observance of IHL and respect for internationally recognized human rights for all persons within Mindanao. Under the agreement, consideration of international human rights and IHL are closely related, as directives from the Government and the armed forces to troops in Mindanao refer to both international human rights and IHL principles without distinction. The Government and MILF vowed to cooperate fully with each other and with the ICRC in determining the identity, whereabouts, and fate of persons reported missing in the course of armed conflicts. Detained persons could be visited by their relatives as well as by the ICRC, wherever they might be held, in accordance with the ICRC standard operating procedures.

13. The Government noted that in terms of creating public awareness of IHL principles, it continues to strengthen its coordination with the ICRC. The ICRC continues to give presentations on IHL to combatants of both the Government and opposition groups. In Mindanao alone during 2002, the ICRC made a total of 43 presentations to 2,982 members of the armed forces. Relevant IHL material was distributed in the course of these presentations. Several presentations were also made to MILF combatants.

II. REPLIES RECEIVED FROM INTERNATIONAL HUMANITARIAN ORGANIZATIONS

14. **The International Committee of the Red Cross (ICRC)** stated that it has launched major initiatives to resolve the problem of persons missing as a result of armed conflict or internal violence and to assist their families. In 2002, the ICRC launched a process, called “The Missing - action to resolve the problem of persons unaccounted for as a result of armed conflict or internal violence and to assist their families”, in order to be more effective in preventing persons going missing, to respond to the needs of families of missing persons, to agree on common practices with all concerned actors regarding prevention measures, to respond more appropriately when people are unaccounted for, and to raise the issue higher on the international agenda. The “ICRC Report: The Missing and their Families” summarized the studies and workshops conducted. This process culminated in the convening of an International Conference of Governmental and Non-Governmental Experts (19-21 February 2003), which adopted by consensus its Observations and Recommendations.

15. Following up on the outcome of this process, the 28th International Conference of the Red Cross and Red Crescent (2-6 December 2003) adopted the Agenda for Humanitarian Action, which addressed this issue as one of four humanitarian concerns. The Agenda set out clear objectives for States and the other components of the International Red Cross and Red Crescent Movement to achieve from 2004 to 2007.

16. For its part, the ICRC pledged to strengthen its operational practices, to work with relevant authorities and organizations, notably in implementing the recommendations and best practices identified, and to contribute to the strengthening of relevant international and domestic law. The ICRC has included in its operational instructions the recommendations and best practices issued by the two conferences mentioned above. Thus, wherever necessary, the ICRC is reinforcing its traditional activities. In addition, the ICRC will seek to promote these best practices among all relevant actors. To this end, it has drawn up a plan of action to be implemented progressively during the years ahead. It includes activities in the following areas: (a) promotion of existing international law, development of legal guidelines for non-international armed conflict, and support to the development of a new international instrument to effectively protect persons from enforced disappearance; (b) support for the enhancement of domestic law; (c) cooperation with armed forces and regional military organizations, and facilitating contacts between them, in order to ensure, for instance, the wearing by military personnel of identification means, their regular exchange of news with their families, and the proper handling of information on the dead and of human remains on the battlefield; (d) enhancement of family news networks and capacities to manage information; (e) promotion of standards regarding the proper handling of the dead, for use by non-professionals such as staff of humanitarian organizations, and by forensic professionals; and (f) promotion of guidelines regarding the specific needs of families and the means to support them.
