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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Missing persons**

Report of the Secretary-General

Summary

The present report, which is submitted pursuant to resolution [73/178](#), serves to address the international legal and institutional framework applicable to the issue of missing persons, identify the various measures being taken to prevent people from going missing and clarify the fate and whereabouts of missing persons, criminal investigation and prosecution in cases of missing persons, forensic recovery and identification of remains of missing persons, and the legal status of missing persons and support for families. The report indicates that there is an alarmingly high number of missing children and contains recommendations on prioritizing prevention, preparedness and early action to address the issue.

* [A/75/150](#).

** The present report was submitted after the deadline in order to reflect the most recent developments.



I. Introduction

1. In its resolution [73/178](#), the General Assembly requested the Secretary-General to submit to the Human Rights Council at its relevant session and to the General Assembly at its seventy-fifth session a comprehensive report on the implementation of the resolution, including relevant recommendations. The present report was prepared in accordance with that resolution and covers the period between 1 July 2018 and 30 June 2020.¹ Contributions were sought from Member States, international and regional organizations, national human rights institutions and non-governmental organizations (NGOs).²

2. In resolution [73/178](#), the General Assembly focused primarily on the issue of missing persons in connection with international or non-international armed conflict. Persons go missing in many other circumstances, such as situations of violence, insecurity, organized crime and disaster, and as a result of enforced disappearance and migration. As underlined in the contributions received for the present report and the public sources reviewed, the nature of the initiatives taken to address the issue of missing persons is not necessarily determined by the cause of their disappearance or the context in which they go missing, but by the need to address the fact that their whereabouts are unknown. As in previous reports on missing persons, the present report reflects information received regarding measures to address the issue of missing persons in contexts other than armed conflict, to the extent that such information is relevant for missing persons in connection with armed conflict.

II. International legal and institutional framework

3. In previous reports on missing persons, the Secretary-General set out the international legal framework applicable to the issue of missing persons, drawing on international human rights law and international humanitarian law ([A/67/267](#), paras. 4–7; [A/69/293](#), paras. 4–6; [A/71/299](#), para. 3; and [A/73/385](#), para. 3). The framework includes the International Convention for the Protection of All Persons from Enforced Disappearance, to which, as at 21 July 2020, there were 63 States parties. Since the previous report ([A/73/385](#)), five States (Dominica, Fiji, Gambia, Norway and Oman) have acceded to or ratified the Convention.

4. The General Assembly, in its resolution [73/151](#), affirmed the global compact on refugees, which highlights, inter alia, the importance of capacity development for authorities in relation to family tracing ([A/73/12 \(Part II\)](#), para. 76). On 19 December 2018, the Global Compact for Safe, Orderly and Regular Migration was adopted by the majority of the Member States at the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration, held in Marrakech, Morocco, and was endorsed by the Assembly in its resolution [73/195](#), in which States agreed to identify those who had died or gone missing, and to facilitate communication with affected families (para. 24).

5. At its seventy-first session,³ in 2019, the International Law Commission adopted, on second reading, a set of draft articles on the prevention and punishment

¹ The report also contains references to reports submitted to the Human Rights Council at its forty-fifth session.

² Contributions were received from: Armenia, Azerbaijan, Croatia, Cuba, Montenegro, Nicaragua, Qatar, Switzerland and Ukraine; and United Nations Office on Drugs and Crime, International Committee of the Red Cross (ICRC), Office of the Ombudsperson (Ecuador), National Human Rights Commission (Togo), Asia Justice and Rights and Human Rights Watch.

³ All information on the seventy-first session of the International Law Commission is available at legal.un.org/ilc/sessions/71.

of crimes against humanity, together with commentaries thereto. The definition of crimes against humanity in those draft articles includes the “enforced disappearance of persons” as one of the acts constituting crimes against humanity if it is committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack (see [A/74/10](#), para. 44, art. 2 (1) (i)). At the same session, the Commission decided, in conformity with article 23 of its Statute, to recommend the draft articles to the General Assembly and to recommend the elaboration by the Assembly or by an international conference of plenipotentiaries of a convention on the basis of the draft articles. In its resolution [74/187](#), the Assembly decided to continue to examine the recommendation of the Commission at its seventy-fifth session.

6. On 11 June 2019, the Security Council adopted its first ever resolution dealing specifically with persons reported missing in armed conflict. In resolution [2474 \(2019\)](#), it called upon parties to armed conflict to take all appropriate measures to actively search for persons reported missing, to take appropriate measures to prevent persons from going missing as a result of armed conflict, to pay the utmost attention to cases of children reported missing as a result of armed conflict, and to register and notify the personal details of persons deprived of their liberty, including prisoners of war, as a result of armed conflict, and belonging to the adverse party, consistent with their international obligations. It called upon States, in cases of persons missing as a result of armed conflict, to take measures, as appropriate, to ensure thorough, prompt, impartial and effective investigations and the prosecution of offences linked to missing persons because of armed conflict, in accordance with national and international law.

7. The Security Council urged parties to armed conflict to collect, protect and manage all relevant data and documents on persons missing as a result of armed conflict; to search for, recover and identify the dead; to return remains, wherever possible, to their relatives; and to refrain from the deliberate relocation of remains from mass graves. The Council also called for the inclusion of provisions in peace agreements to facilitate the search for missing persons.

8. In resolution [2474 \(2019\)](#), which led to the inclusion of the issue of missing persons in the protection of civilians agenda of the Security Council, the Council requested the Secretary-General to include updates on missing persons as a result of armed conflict in his annual reports on the protection of civilians (see [S/2019/373](#), para. 45; and [S/2020/366](#), paras. 29–31).

9. On 18 June 2020, Kuwait, Switzerland and the International Committee of the Red Cross (ICRC) jointly organized an online event to explore the role of international cooperation in the implementation of resolution [2474 \(2019\)](#), in particular in relation to technical advice, knowledge exchange and peer-to-peer support.

10. On 30 October 2018, the Human Rights Committee adopted its general comment No. 36 (2018) on the right to life, in which, on the basis of article 6 of the International Covenant on Civil and Political Rights, it addresses the obligations of States parties in relation to enforced disappearance ([CCPR/C/GC/36](#), paras. 57 and 58).

11. At its sixteenth session, held in April 2019, the Committee on Enforced Disappearances adopted the guiding principles for the search for disappeared persons ([CED/C/7](#)), which is based on the International Convention for the Protection of All Persons from Enforced Disappearance and other relevant international instruments.

12. At the thirty-third International Conference of the Red Cross and Red Crescent in December 2019, States parties to the Geneva Conventions and the national Red Cross and Red Crescent societies unanimously adopted a resolution on restoring

family links while respecting privacy, including as it relates to personal data protection, recalling their obligations in relation to missing persons and highlighting the importance of maintaining and restoring family links, which is crucial to the prevention of cases of missing persons.⁴

13. In April 2020, ICRC published two legal factsheets, one on respecting and protecting the dead⁵ and the other on the management of the dead under Islamic law,⁶ as well as its general guidance for the management of the dead in the context of the coronavirus disease (COVID-19),⁷ which includes recommendations on measures to prevent the deceased from becoming missing persons.

14. In December 2018, the Committee of Experts of the Follow-up Mechanism to the Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women (Belém do Pará Convention) adopted general recommendation No. 2 on missing women and girls, in accordance with articles 7 (b) and 8 of that Convention.⁸ Within the framework of the Convention, the Committee of Experts proposed, inter alia, taking into account any possible additional vulnerabilities of indigenous women, women of African descent, women with disabilities, vulnerabilities associated with sexual orientation or gender identity, as well as other factors related to the intersectionality and diversity of women in the creation and adoption of preventative measures and the follow-up of lines of investigation in cases of missing women.

15. In its resolution 2324 (2020) on missing refugee and migrant children, the Parliamentary Assembly of the Council of Europe expressed concern at reports of migrant children going missing and the fact that such disappearances were not being recorded; it also called on member States to strengthen protections for migrant children.⁹

16. Regulation (EU) No. 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System in the field of police cooperation and judicial cooperation in criminal matters introduced several changes to the Schengen Information System, an information-sharing system for migration, security and border management, including the possibility of introducing DNA profiles in alerts related to missing persons in order to contribute to their identification.¹⁰

17. On 18 October 2019, the Council of the European Union officially recognized the Police Expert Network on Missing Persons,¹¹ which serves to bring together law enforcement specialists on missing persons, especially missing children.¹²

⁴ Resolution 33IC/19/R4 of the International Conference of the Red Cross and Red Crescent, available at https://rcrcconference.org/app/uploads/2019/12/RFL-Resolution_12-December-FINAL-at-1430_CLEAN_en.pdf.

⁵ Available at www.icrc.org/en/document/humanity-after-life-respect-and-protection-dead.

⁶ Available at www.icrc.org/en/document/humanity-after-life-respect-and-protection-dead and www.icrc.org/en/publication/management-dead-under-islamic-law.

⁷ International Committee of the Red Cross (ICRC), “COVID-19: General guidance for the management of the dead”, 16 June 2020. Available at www.icrc.org/en/publication/covid-19-general-guidance-management-dead.

⁸ Available at www.oas.org/en/mesecvi/docs/MESECVI-CEVI-doc.250-EN.pdf.

⁹ Available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28595&lang=en>.

¹⁰ Available at eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32018R1862.

¹¹ See Cision PR Newswire, “Police Expert Network on Missing Persons officially recognized by Council of the European Union”, 20 November 2019. Available at www.prnewswire.com/news-releases/police-expert-network-on-missing-persons-officially-recognised-by-council-of-the-european-union-300961960.html.

¹² See www.amberalert.eu/police-expert-network.

18. In April 2020, the European Migration Network, which is coordinated by the European Commission services, published its mapping on how cases of unaccompanied children going missing are being treated in European Union member States and found that member States lacked comparable data and a uniform mechanism for cross-border cooperation.¹³

III. Measures to prevent persons from going missing

19. In resolution 73/178, the General Assembly called upon States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with the armed conflict. Developing and implementing measures pre-emptively, including during peacetime, to ensure that they are in place before they may be required, is key to their effectiveness.

A. Enacting national legislation

20. The development of national legal frameworks in accordance with international human rights law and international humanitarian law contributes to preventing disappearances, ascertaining the fate of missing persons, ensuring the comprehensive collection, protection and proper management of information and providing victims' families with appropriate support. Domestic legislation should provide appropriate regulatory frameworks for the collection, processing and protection of data, in compliance with international human rights law.

21. During the reporting period, various States enacted legislation on issues pertaining to missing persons. In Brazil, a national policy for searching for missing persons was established and a national register of missing persons was created in accordance with national law No. 13.812/2019. In Ecuador, the involuntary disappearance of people was included in the Comprehensive Organic Penal Code in December 2019, and, in January 2020, the Organic Law on Action in Cases of Disappeared and Missing Persons was published, pursuant to which, a national system for searching for missing persons and responding to indirect victims and a national register of missing persons were created. In El Salvador, following technical advice from the United Nations Office on Drugs and Crime (UNODC), the Criminal Code was amended in 2019 to contain broader provisions on the crime of enforced disappearance, including to cover disappearances which could be attributed to organized crime.

22. On 29 June 2019, the parliament of Iraq submitted a draft law on the protection of persons from enforced disappearances. In September 2019, the Human Rights Office of the United Nations Assistance Mission for Iraq conducted a review of the draft law and made recommendations on its compliance with the Convention.

23. In Kyrgyzstan, the crime of enforced disappearance was listed separately in the new Criminal Code, which entered into force on 1 January 2019. In Peru, legislative decree No. 1398 was adopted in September 2018, providing for the establishment of a genetic databank for the search of missing persons, covering the period from 1980 to 2000.

¹³ European Migration Network, "How do EU member States treat cases of missing unaccompanied minors?", 2020. Available at ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_inform_uam_2020_en_0.pdf.

B. Other preventive measures

24. Providing the armed and security forces of States with means of identification and properly using those means facilitates the documentation of the whereabouts and fate of members of those forces who go missing in connection with an armed conflict. States have the primary responsibility for providing their armed forces with such means of identification and ensuring their proper use. In some cases, national information bureaux and grave registration services should be established, in accordance with international humanitarian law.¹⁴ ICRC has noted that some States have national information bureaux or institutions assigned to perform such functions and has reminded States to establish national information bureaux already during peacetime.

25. ICRC noted several developments, including the issuance of identification cards with biodata chips to security personnel in Afghanistan and the expansion of the use of identification tags among the armed forces of Azerbaijan. In Iraq, a system of identification discs, together with a system for collecting ante-mortem data and DNA samples from servicemen, were introduced, with the support of ICRC.

IV. Measures to clarify the fate and whereabouts of missing persons

26. In resolution [73/178](#), the General Assembly reaffirmed the right of families to know the fate of their relatives reported missing in connection with armed conflict. It called upon States that are parties to an armed conflict to take all necessary measures, in a timely manner, to determine the identity and fate of persons reported missing in connection with armed conflict and, to the greatest extent possible, to provide their family members, through appropriate channels, with all relevant information that they have on their fate, including their whereabouts or, if they are dead, the circumstances and cause of their death.

27. In principle 3 of its guiding principles for the search for disappeared persons, the Committee on Enforced Disappearances highlighted that searches should be conducted as part of a comprehensive public policy on disappearances.

A. Tracing and restoration of family links

28. Through requests for urgent action under article 30 of the Convention, the Committee on Enforced Disappearances continued to enable families and relatives to re-establish contact with disappeared persons who had been located, and to facilitate their access to information about the actions taken by State authorities to search for the disappeared person, and to assist them in transmitting information to the competent authorities.

29. In principle 12 of its guiding principles for the search for disappeared persons, the Committee recalled that searches for missing persons should be centralized under, or coordinated by, a competent body that ensures effective coordination with all entities whose cooperation is needed for the search to be effective, exhaustive and prompt.

¹⁴ See the Geneva Convention relative to the Treatment of Prisoners of War, 12 August 1949, art. 122; the Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, art. 136; and the Convention respecting the Laws and Customs of War on Land, annex, art. 14, para. 1.

30. ICRC continued its tracing activities and maintained dialogue with relevant authorities and armed groups on the whereabouts of missing persons, the location of gravesites and requests for the recovery and identification of human remains. It noted that the Family Links Network, comprising national Red Cross and Red Crescent societies and ICRC and led by the Central Tracing Agency, had supported authorities and separated families in re-establishing and maintaining family links. In 2018 and 2019, ICRC distributed more than 290,000 Red Cross messages and facilitated contact with families in more than 2.4 million cases.

31. In 2018 and 2019, ICRC brought about 1,987 family reunifications, including 1,791 involving minors, in 39 countries. It noted that in 2020, the implementation of measures to contain the spread of COVID-19 was having a negative impact on the ability of families to maintain contact and that the ability of those traditionally providing services to restore and maintain family contact had in some cases been dramatically reduced.

32. States have taken various measures. In Albania, the parliament ratified an agreement with the International Commission on Missing Persons to help the Albanian authorities to search for and identify the remains of those who had gone missing under the totalitarian regime (A/HRC/42/40, para. 61). UNODC noted that it had provided technical cooperation to El Salvador in the elaboration of the first national framework on the coordination of the search and operational measures of the national authorities to respond to disappeared persons cases, through the creation of the Urgent Action Protocol and a strategy on searches for disappeared persons in El Salvador, launched on 10 December 2018. In Iraq, in May 2020, the Prime Minister created a committee to locate government facilities used for the secret detention of demonstrators, and in June 2020, the Interior Minister and his Kurdish counterpart formed a joint committee to intensify the search for Yazidis who had allegedly been abducted by Islamic State of Iraq and the Levant.

B. Coordination mechanisms

33. Parties formerly engaged in an armed conflict may agree to take measures under the auspices of a neutral intermediary, such as setting up coordination mechanisms to exchange information; providing mutual assistance in locating and identifying missing persons, and in recovering, identifying and returning human remains; and enabling family members to be informed about progress in determining the fate or whereabouts of missing persons.

34. In principle 12 of its guiding principles for the search for disappeared persons, the Committee on Enforced Disappearances recalled that when there were indications that a disappeared person could be in a foreign country as a migrant, refugee or victim of trafficking in persons, the authorities responsible for the search should use all available national and international cooperation mechanisms and, when necessary, establish such mechanisms.

35. States have continued setting up and implementing coordination mechanisms. Croatia reported that in 2019 it had signed with Bosnia and Herzegovina rules of conduct for the implementation of a protocol on cooperation that the two parties had signed in 2017. In 2019, rules of conduct were also signed by Bosnia and Herzegovina and Serbia on the implementation of a protocol on cooperation that the two countries had signed in 2015. Montenegro reported that on 10 October 2019, it had signed a protocol on cooperation on searches for missing persons with Bosnia and Herzegovina, in addition to the protocols on cooperation on searches for missing

persons that it had already signed with Serbia in 2012, Kosovo¹⁵ in 2015 and Croatia in 2017. Montenegro also reported that on 4 July 2019, as part of the sixth Berlin Process Summit on Missing Persons in Conflicts in the Former Yugoslavia, a special meeting had been held in Poznan, Poland, at which a progress report for the period from November 2018 to July 2019 on the implementation of a framework plan had been submitted.¹⁶ In March 2020, a bilateral meeting had been held between Montenegro and Bosnia and Herzegovina to discuss and agree on work procedures and data exchange mechanisms in the search for missing persons.

36. Under the auspices of ICRC, which has acted as a neutral intermediary, the tripartite coordination mechanism, comprising Georgian, Russian and South Ossetian participants, met three times in 2018 and 2019. ICRC reported that 77 sets of mortal remains had been exhumed since 2010, 15 of which had been identified and handed over to their families. As at 1 May 2020, 123 persons remained unaccounted for in relation to the conflict.

37. The working group on a bipartite coordination mechanism, comprising Georgian and Abkhaz participants responsible for dealing with forensic issues, reportedly met three times in 2018 and 2019. According to ICRC, between 2010 and 2019, the remains of 163 persons were identified and handed over to their families, including 37 in 2018 and 2019. As at 1 May 2020, 2,239 persons remained unaccounted for in relation to the armed conflict.

38. ICRC noted that, from April 2018 to August 2019, in relation to the persons missing following the war between the Islamic Republic of Iran and Iraq from 1980 to 1988, the remains of 423 Iranian and 132 Iraqi soldiers who went missing during that war had been repatriated to their respective countries as part of the implementation of the 2008 joint memorandum of understanding, with ICRC acting as a neutral intermediary.

39. The working group on persons unaccounted for in relation to the events in Kosovo, comprising delegations from Belgrade and Pristina, has reportedly met 51 times since 2004, most recently in February 2020. A sub-working group on forensic issues, chaired by ICRC, has also continued to meet regularly, and its analysis team has continued to exchange and analyse available information with the Pristina and Belgrade delegations, the European Union Rule of Law Mission in Kosovo and ICRC. As a member of the Pristina delegation, the United Nations Interim Administration Mission in Kosovo (UNMIK) continued to support the working group, including through the provision of ground penetrating radar and advanced equipment enabling the examination of potential mass grave sites and a faster and cost-effective process for finding missing persons. UNMIK facilitated further cooperation between the Belgrade and Pristina delegations and continued to advocate a victim-centred approach and the right to know. According to ICRC, the total number of people who had gone missing in relation to events in Kosovo between 1998 and 1999 was 6,057. To date, 4,420 cases have been closed including 1,374 persons who have been located alive. As of March 2020, 1,646 persons remain unaccounted for.

40. ICRC noted that in December 2018, the members of the ICRC-chaired Tripartite Commission, which was set up to clarify the fate of missing persons in relation to the 1990–1991 conflict between Iraq and Kuwait, had adopted the report of an independent review initiated by ICRC and its recommendations aimed at moving the file forward and streamlining the search and recovery processes while underlining

¹⁵ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

¹⁶ International Commission on Missing Persons, “Berlin process Poznan meeting: missing persons group maintains effort to account for those still missing from 1990s conflicts in former Yugoslavia”, 4 July 2019.

forensic best practices. Between March 2019 and January 2020, three mass graves believed to contain the remains of persons who had gone missing in relation to the 1990–1991 Gulf War were located and exhumed. The Secretary-General continued to report to the Security Council on efforts regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains, in accordance with Council resolution 2107 (2013) (see S/2018/683, S/2018/976, S/2019/78, S/2019/352, S/2019/632, S/2019/865, S/2020/133 and S/2020/358).

41. Under the auspices of the Astana format, a working group established in December 2017 has occasionally met to work on the release of detainees and abductees, the handover of bodies and the identification of missing persons in the Syrian Arab Republic, and has coordinated with some parties to the conflict to organize and facilitate prisoner exchange operations. The members of the working group – Iran (Islamic Republic of), Russian Federation and Turkey – are the guarantor States of the Astana format, together with the Office of the Special Envoy of the Secretary-General for Syria. Upon invitation, ICRC provides technical expertise, and on one occasion also acted as a neutral intermediary for a prisoner exchange operation. The Special Envoy for Syria has appealed for the Government of the Syrian Arab Republic and all other Syrian parties to move beyond one-for-one prisoner exchanges and carry out unilateral releases of detainees and abductees on a meaningful scale.

42. The National Human Rights Commission of Togo noted that Togo had joined the West African Police Information System, a regional data sharing platform.

43. In December 2018, the parties to the conflict in Yemen concluded the Stockholm Agreement, which includes sections on the release and transfer of prisoners and the recovery and transfer of dead bodies belonging to the parties. The Office of the Special Envoy of the Secretary-General for Yemen and ICRC jointly chair the supervisory committee tasked with implementing the Agreement. No mechanism to address the issue of missing persons has been set up, but the release of prisoners and the transfer of detainees could help to clarify the fate of missing persons.

C. National institutions

44. National institutions, such as national commissions on missing persons, can play a crucial role in clarifying the fate of missing persons and providing support to families of those who are missing. National information bureaux and grave registration services, established in accordance with international humanitarian law, can also carry out those functions.

45. National institutions mandated to address the issue of missing persons have been established or strengthened in a number of countries. In many instances, ICRC provided support. In Armenia, for instance, following constitutional changes, the State Commission on Prisoners of War, Hostages and Missing Persons of Armenia was re-established, in compliance with decree No. 1535-A of 19 November 2018, and has reportedly met twice: once in 2019 and again in 2020. On 16 January 2020, further to an amendment of decree No. 519 of 15 November 2004, the Azerbaijani State Commission on Prisoners of War, Hostages and Missing Persons was re-established with a new composition.

46. ICRC noted the announced intention of the Government of Brazil to close, in 2020, the Special Commission on Political Deaths and Disappearances, which had been mandated to search for persons reported missing during the period of the military regime in Brazil from 1961 to 1988. The identification process in respect of the most comprehensive caseload of the Special Commission, the “Perus case”, continued following an agreement signed under a judicial process.

47. In Colombia, the Office of the United Nations High Commissioner for Human Rights (OHCHR) provided technical support to the country's Missing Persons Search Unit, which focuses on persons who went missing during the national armed conflict. ICRC and the Missing Persons Search Unit also signed a memorandum of understanding in July 2019. On 6 May 2020, the Unit presented its national search plan, which follows a participative, ethnically sensitive and gender-sensitive approach to ensure the participation of indigenous peoples, afro-Colombian peoples and Roma peoples, as well as women and the lesbian, gay, bisexual, transgender and intersex community.¹⁷

48. In February 2020, in Georgia, the Inter-agency Commission on the Search for and Reburial of Persons Missing as a Result of Armed Conflicts met for the first time. In Mexico, the National Search Commission was created in 2018, the National Search System was reinstated in March 2019, and, to date, 29 states have created State Search Commissions and 25 have established specialized attorney offices on disappearances.

49. In August 2018, the National Committee on Missing Persons was created in Nigeria as a temporary body under the National Human Rights Commission, with the National Technical Committee on the Establishment and Management of a Missing Persons Database as its advisory board. In March 2020, a technical working group on missing persons and their families was formally inaugurated in South Sudan under the leadership of the Ministry of Humanitarian Affairs and Disaster Management. The National Human Rights Commission of Togo noted that it was often seized with allegations of enforced disappearances because Togo did not have a commission on missing persons.

50. Ukraine noted the approval on 10 April 2019 of the composition of the Commission on Persons Missing in Special Circumstances, which met for the first time in May 2019. On 21 August 2019, the Cabinet of Ministers approved the procedure relating to search groups. As at 30 June 2020, the Commission was not yet operational and the search groups and a unified register of missing persons in special circumstances had yet to be established. The topic of missing persons is on the agenda of the Trilateral Contact Group peace negotiations within the framework of the Minsk agreements and support is provided by ICRC and the Human Rights Monitoring Mission in Ukraine.

51. In 2019, in Uruguay, law No. 19.822 mandated the National Human Rights Institution and Ombudsperson to search for persons who had been arrested and disappeared in the context of "illegitimate action of the State" carried out between 13 June 1968 and 26 June 1973 and "State terrorism" perpetrated between 27 June 1973 and 28 February 1985.

D. Accountability

52. Accountability, including rights to justice, the truth, reparations and effective remedy, is a key component of any attempt to address the issue of missing persons. United Nations human rights mechanisms, including international commissions of inquiry and fact-finding missions, have regularly addressed this issue. At the national level, the issue of missing persons also continues to be part of transitional justice processes.

53. In its November 2018 report entitled "Death notifications in the Syrian Arab Republic",¹⁸ the Independent International Commission of Inquiry on the Syrian Arab

¹⁷ Available at www.ubpdbusquedadesaparecidos.co/wp-content/uploads/2020/05/Documento_PNB_05052020.pdf.

¹⁸ Available at https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/Death_NotificationsSyrianArabRepublic_Nov2018.docx.

Republic, in reference to the high number of missing persons in that country, noted that the Government had not released any information on the whereabouts of bodies. The Commission's reports have also highlighted the impact on women ([A/HRC/42/51](#), para. 92) and children ([A/HRC/43/CRP.6](#), paras. 39 and 76) whose family members had gone missing as a result of enforced disappearance. The Commission called on the Government of the Syrian Arab Republic to cease forms of detention that are equivalent to enforced disappearance ([A/HRC/43/57](#), para. 100 (c)) and immediately disclose the fates of detained, disappeared and missing persons ([A/HRC/40/70](#), para. 98 (d); see also [A/HRC/WGEID/120/1](#), paras. 140–141).

54. The Group of Eminent International and Regional Experts on Yemen reported the widespread occurrence of enforced disappearance in Yemen ([A/HRC/42/CRP.1](#), para. 253; [A/HRC/42/17](#), paras. 94–95; see also [A/HRC/39/43](#), para. 106) and called for the creation of a national register for missing persons and for parties to the conflict to inform families of the whereabouts of all detainees ([A/HRC/39/43](#), para. 111 (h)).

55. The Commission on Human Rights in South Sudan reported on cases of enforced disappearances ([A/HRC/40/69](#) and [A/HRC/40/CRP.1](#)) and highlighted cases of extraterritorial disappearances ([A/HRC/43/56](#), para. 83).

56. The Commission of Inquiry on Burundi reported on the existence of a climate of secrecy conducive to cases of disappearance ([A/HRC/39/63](#), para. 35). It also described the fear of reprisals ([A/HRC/42/49](#), para. 28) and called on the Government of Burundi to establish an independent body to investigate cases of disappearance reported since April 2015 ([A/HRC/39/63](#), para. 85 (c)).

57. The number of cases under active consideration by the Working Group on Enforced or Involuntary Disappearances that have not yet been clarified, closed or discontinued stands at 46,291 in a total of 92 States (see [A/HRC/45/13](#)). In September 2019, the Working Group decided to document cases concerning enforced or involuntary disappearances allegedly perpetrated by non-State actors that exercise effective control and/or government-like functions over a territory ([A/HRC/42/40](#), para. 94). The Working Group has expressed concern at the increasing practice of extraterritorial abductions ([A/HRC/42/40](#), para. 56) and noted worrisome trends regarding the access of victims and their relatives to complaint mechanisms ([A/HRC/WGEID/120/1](#), para. 30; and [A/HRC/WGEID/119/1](#), para. 57).

58. During the reporting period, pursuant to article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee continued to consider individual communications on cases of enforced disappearances (see [CCPR/C/126/D/2560/2015](#), [CCPR/C/126/D/2750/2016](#), [CCPR/C/127/D/2760/2016](#) and [CCPR/C/127/D/2766/2016](#)).

59. As at 29 May 2020, the Committee on Enforced Disappearances had registered a total of 896 urgent actions, including 473 disappearances in Iraq and 361 disappearances in Mexico. Of that total, 80 urgent actions had been closed or discontinued following the localization of the disappeared persons, including 24 related to events that had occurred in Iraq (see [CED/C/15/3](#), [CED/C/16/2](#) and [CED/C/17/2](#)).

60. In the Plurinational State of Bolivia, the Truth Commission responsible for researching crimes committed by military regimes ruling from 1964 to 1982, including enforced disappearances, reportedly provided its report to the Ombudsman's Office on 3 March 2020.

61. On 7 April 2020, the parliament of the Central African Republic adopted law No. 20.009 on the institution of a truth, justice, reparation and reconciliation commission, mandated to investigate all national events of a violent nature that had

occurred between 1959 and 2019. The law acknowledges the specific nature of the situation of missing persons and their families.

62. The National Directorate for Research on Human and Natural Rights of the Office of the Ombudsperson of Ecuador noted the creation of a mechanism for missing persons and for reparation for victims documented by the Truth Commission.

63. In the Gambia, the Truth, Reconciliation and Reparation Commission, established in 2017, *inter alia*, to investigate and establish an impartial historical record of human rights violations committed between July 1994 and January 2017, including enforced disappearances, and to consider reparations for victims, held public hearings between January 2019 and February 2020. In Nepal, the Commission of Investigation on Enforced Disappeared Persons, established in 2015, had its tenure extended until February 2021 (see also Human Rights Council special procedures communications¹⁹ NPL 1/2019 and NPL 1/2020).

64. On 21 June 2019, the Government of Panama and the Héctor Gallego Committee of the Relatives of People Disappeared and Murdered in Panama signed a friendly settlement agreement, endorsed by the Inter-American Commission on Human Rights, in favour of 13 victims and their 84 relatives.

65. In South Sudan, the United Nations Mission in South Sudan continued to mobilize technical and financial support for the creation of an enabling environment for the effective functioning of the Commission of Truth, Reconciliation and Healing provided for in chapter 5 of the September 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan.²⁰ ICRC noted that it had engaged with the authorities of South Sudan and made them aware of the need to pursue humanitarian objectives when addressing cases of missing persons within the transitional justice framework.

66. The Working Group on Enforced or Involuntary Disappearances highlighted the need for the Office for Reparations of Sri Lanka to promptly begin the implementation of activities and that judicial accountability and truth-seeking mechanisms be created (A/HRC/42/40/Add.1 and LKA 1/2020).

67. On 28 February 2019, relevant mechanisms of the Human Rights Council special procedures addressed concerns to Tunisia regarding the abrogation of articles of a 2013 organic law on the establishment of the transitional justice process and specialized criminal chambers (TUN 2/2019).

E. Archives

68. The collection, protection and management of information is essential for addressing the issue of missing persons. Archives remain critical to exercising the right to the truth effectively. In resolution 73/178, the General Assembly invited States, national institutions and, as appropriate, intergovernmental, international and non-governmental organizations to ensure the development and proper management of archives pertaining to missing persons and unidentified remains in connection with armed conflict, as well as access to those archives in accordance with applicable laws and regulations.

¹⁹ The special procedures communications can be accessed at spcommreports.ohchr.org/Tmsearch/TMDocuments.

²⁰ See OHCHR and the United Nations Mission in South Sudan, “Report on the right to freedom of opinion and expression in South Sudan since the July 2016 crisis”, February 2018. Available at unmiss.unmissions.org/sites/default/files/unmiss-ohchr_freedom_of_expression_report_-_final_amendment.pdf.

69. On 30 May 2019, relevant Human Rights Council special procedures mechanisms transmitted a letter to Guatemala expressing serious concern at the envisaged cancellation of an inter-institutional agreement on the historical archive of the national police, which could compromise the integrity of and access to the archival funds (GTM 3/2019 and [A/HRC/WGEID/118/1](#)).

70. ICRC noted that, in 2019, the Human Rights Office of the Archbishop of San Salvador, which had important archives relating to the armed conflict fought in El Salvador between 1980 and 1992, had opened and analysed 2,359 files relating to cases of disappeared persons.

71. States and other stakeholders cooperated with ICRC on the use of archives for the strictly humanitarian purpose of clarifying the fate and whereabouts of missing persons in connection with armed conflict. In October 2018, ICRC signed a memorandum of understanding with the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, which reinforced previous cooperation arrangements and exclusively focused on the search for information to clarify the fate and whereabouts of persons missing as a result of the conflicts in the former Yugoslavia. As of April 2020, ICRC conducted a search related to the names of more than 2,800 missing persons. All information collected from international archives was processed by ICRC and handed over to the relevant commissions and national institutions in the Western Balkans.

72. In the past two years, ICRC has contacted States, international and regional organizations, and international and local NGOs, requesting the transmission of information from their archives that could help to clarify the fate of persons missing in relation to the conflicts in the Western Balkans. As a result, to date, Canada, Denmark, France, Italy, Poland and the United States of America have sent relevant documentation to ICRC, while the Netherlands, the European Union and the North Atlantic Treaty Organization have provided ICRC with direct access to their respective archives.

V. Missing children

73. In resolution [73/178](#), the General Assembly requested States to pay the utmost attention to cases of children reported missing in connection with armed conflict and to take appropriate measures to search for and identify those children and to reunite them with their families.

74. In his report on children and armed conflict submitted pursuant to Security Council resolution [2427 \(2018\)](#) and covering the period from January to December 2019 ([A/74/845](#)), the Secretary-General noted that the United Nations had verified the abduction of 1,683 children, with over 95 per cent of cases perpetrated by non-State actors, mainly in the Democratic Republic of the Congo, Nigeria and Somalia. Children had been abducted for recruitment and use and sexual violence or ransom.

75. With respect to the Syrian Arab Republic, the Working Group on Enforced or Involuntary Disappearances has considered cases of enforced disappearance concerning children (see [A/HRC/WGEID/119/1](#)).

76. In principle 4 of its guiding principles for the search for disappeared persons, the Committee on Enforced Disappearances recalled that the entities responsible for searches should pay special attention to cases involving disappeared children and adolescents, and develop and carry out search actions and plans that took into account their extreme vulnerability. Officials should respect the principle of the best interests of the child at all stages of searches. The Committee systematically considered the

situation of children when examining States' reports (see, for example, [CED/C/ALB/CO/1](#), para. 39). It raised concerns in particular at the way in which State authorities had managed the situation of unaccompanied or separated minors in the context of migration (see, for example, [CED/C/ITA/CO/1](#), paras. 23 and 35).

VI. Criminal investigation and prosecution

77. Pursuant to the International Convention for the Protection of All Persons from Enforced Disappearance, enforced disappearance constitutes a crime and, in certain circumstances defined in international law, a crime against humanity. The Convention establishes a clear obligation for States parties to investigate and prosecute such offences. Accountability is fundamental in contributing to victims' right to an effective remedy and can constitute a prevention tool. Criminal investigations and prosecutions can also better assist victims in realizing their right to know the truth regarding the circumstances of the enforced disappearance.

78. In September 2018, the Working Group on Enforced or Involuntary Disappearances published an interim report on standards and public policies for an effective investigation of enforced disappearances (see [A/HRC/39/46](#), paras. 49–79). In its work, the Working Group has addressed the issue of investigations and prosecutions, impunity, and the impact of counter-terrorism laws and policies ([A/HRC/WGEID/117/1](#), annex I, para. 65; [A/HRC/WGEID/118/1](#), annex I, paras. 4–5; [A/HRC/42/40/Add.1](#); and [DZA 1/2020](#), [IRQ 2/2020](#), [EGY 4/2020](#), [CHN 15/2018](#), [CHN 21/2018](#), [CHN 18/2019](#) and [PAK 10/2019](#)).

79. Several States criminalized enforced disappearance in their domestic laws or are in the process of doing so. Recent cases concerning alleged enforced disappearances were reportedly also heard by tribunals, including at the highest instances, including in Argentina, Bosnia and Herzegovina, Brazil, Chile, Colombia, France, Mexico and Uruguay.

VII. Forensic recovery and identification of remains of missing persons

80. In resolution [73/178](#), the General Assembly invited States, national institutions and, as appropriate, intergovernmental, international and non-governmental organizations, to further their engagement, in order to follow forensic best practices as they applied to preventing and resolving cases of missing persons in connection with armed conflict.

81. During the reporting period, the Working Group on Enforced or Involuntary Disappearances, *inter alia*, recommended the adoption of a comprehensive strategy and plan for the search for, recovery and identification of burial sites ([A/HRC/42/40/Add.2](#)) and transmitted concerns regarding certain exhumation efforts ([IRQ 2/2020](#)).

82. Under principle 12 of its guiding principles for the search for disappeared persons, the Committee on Enforced Disappearances stated that States should take the necessary measures to guarantee the transfer of the knowledge and technology needed for search processes, including those of national and international organizations specialized in searching for disappeared persons and identifying human remains. Their experiences should be drawn on in the establishment of search entities, the definition of their procedures and the ongoing training of their staff.

83. States continued establishing technical forensic committees or working groups, developing forensic services and tools, including forensic data management systems, and acquiring highly specialized equipment required for these investigations. In November 2019, UNODC facilitated a donation agreement between Colombia and El Salvador for the creation of the Single Registry System for Missing Persons in El Salvador. In Iraq, ICRC noted that, since 2019, the medico-legal system had been reinforced through the introduction of comprehensive quality and data management systems. In the Niger, the members of the Committee on the Management of Dead Bodies prepared a draft decree to formalize and institutionalize the framework of that Committee. In South Sudan, in February 2019, the advisory steering committee on the management of dead bodies was established and tasked with mobilizing key stakeholders in developing a national mass fatality plan.

84. In Italy, forensic experts and the authorities continued working on the identification of casualties from the shipwreck that had occurred on 18 April 2015, in which over 1,000 migrants and refugees are estimated to have lost their lives. In January 2017, ICRC signed an agreement with the Italian authorities and the Italian Red Cross to support outreach to the authorities and families in countries of origin. To date, ICRC has identified 423 possible victims of the shipwreck and received tracing requests from 297 families in eight African countries. Ante mortem data about the missing persons were collected from 226 families in Mali, Mauritania and Senegal, and biological reference samples from 84 families in Mauritania and Senegal.

85. International organizations have engaged in training. UNODC, for instance, has provided specific training in El Salvador to the Institute of Legal Medicine, the Attorney General's Office, the National Civil Police and the Ombudsman's Office on international forensic standards; the application of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the Istanbul Protocol; and the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), to promote the standardization of forensic procedures at the national level.

86. ICRC noted that a growing number of academic institutions and specialized NGOs worldwide were interested in research, training and the implementation of forensic sciences applied to the prevention and investigation of missing persons and to clarification of the identity of unidentified dead people, who might not be reported as missing for a number of reasons. During the reporting period, ICRC supported those developments, including by partnering in 2018 with the Gujarat Forensic Sciences University in India to establish the International Centre for Humanitarian Forensics as a one-stop centre of excellence in Asia.

VIII. Legal status of missing persons and support for families

87. Family members should be allowed to participate in the design and implementation of policies and programmes. In this regard, in resolution 73/178, the General Assembly called upon States to take appropriate steps with regard to the legal situation of missing persons and the individual needs and accompaniment of their family members, with particular attention to the needs of women and children in areas such as social welfare, psychological and psychosocial support, financial matters, family law and property rights. Ensuring the rights of the victims and their families to the truth, justice and an effective remedy is an essential aspect of any response.

88. In principle 14 of the guiding principles for the search for disappeared persons, the Committee on Enforced Disappearances noted that States should provide financial support to the victims who searched for a disappeared person, bearing in mind the

harm caused to the household income by the disappearance of a family member and the additional costs incurred during the search, such as transport, accommodation and loss of working hours, among others. Officials responsible for the search should take into account the risks to physical and mental health that persons and communities may face throughout the search process. The Committee recalled that all protection measures should respect the beneficiaries' right to privacy, require the prior consent of beneficiaries and be subject to review at their request. In its concluding observations, the Committee has regularly addressed the legal situation of disappeared persons, including those whose fate has not been clarified, and their relatives (see [CED/C/JPN/CO/1](#), paras. 41 and 42; [CED/C/CHL/CO/1](#), paras. 28 and 29; [CED/C/PER/CO/1](#), paras. 30 and 31; [CED/C/BOL/CO/1](#), paras. 36 and 37; and [CED/C/SVK/CO/1](#), paras. 26 and 27).

A. Understanding the needs of families

89. The needs of the families of missing persons are wide-ranging. In relation to Peru, the Working Group on Enforced or Involuntary Disappearances welcomed the recognition of the “multiple harms” suffered by victims of enforced disappearances and of their compensation, with priority given to certain victims. The Working Group noted that it is of particular relevance to recognize that many women were victims of different types of sexual violence when their loved ones went missing or in the context of searching for them. It urged States to continue evaluating and refining public policies aimed at serving these victims ([A/HRC/42/40/Add.1](#)). During the reporting period, the Working Group also noted and expressed concern at the reported surveillance, threats, intimidation and harassment of relatives of disappeared persons, and reprisals against family members who spoke out (see LKA 2/2018, PHL 7/2019, PHL 1/2020, and BLR 3/2020; and [A/HRC/39/46](#), para. 104).

90. ICRC noted that, in cooperation with family associations, national Red Cross and Red Crescent societies, governmental organizations, NGOs and academic and research institutions, it had continued to assess the needs of the families of missing persons on the basis of ICRC guidelines for multidisciplinary family needs assessments. Since 2018, it had concluded or updated family needs assessments in Brazil, Cameroon, Cyprus, Guatemala, Iraq, Kyrgyzstan, Nigeria and Ukraine. In 2019, a needs assessment was conducted for Syrian families of missing persons living in Jordan and Lebanon.

B. Addressing the needs of families

91. The Working Group on Enforced or Involuntary Disappearances noted and received allegations of challenges faced by victims of disappearance and their families, including the resulting economic hardship and difficulties in relation to compensation ([A/HRC/WGEID/117/1](#), annex I; and [A/HRC/WGEID/120/1](#), annex I, para. 8). The Working Group stressed the fact that the gendered dimension of the phenomenon of enforced disappearance should be addressed, as well as the fact that women as family members, in particular when they become heads of households because of enforced disappearance, had specific material, financial, psychological and legal needs ([A/HRC/45/13/Add.1](#)). It emphasized the need to ensure that legal provisions included an enforceable right for victims of enforced disappearances to receive full reparation, including compensation, satisfaction, restitution, rehabilitation and guarantees of non-repetition ([A/HRC/45/13/Add.6](#)). It recommended creating and implementing a comprehensive system of reparations that included professional and victim-oriented psychosocial assistance for relatives of

disappeared persons in relation to the physical, mental and economic consequences resulting from the absence of the disappeared person ([A/HRC/42/40/Add.2](#)).

92. ICRC noted that it had developed a holistic approach in its support to families of missing persons, operating on the premise that families could be helped through empathetic relationships and mutual support. The main goal of that method, referred to as *accompaniment*, was to strengthen the abilities of individuals and families to cope with the difficulties relating to the disappearance of their relatives and gradually regain social and emotional well-being.²¹ During the reporting period, *accompaniment* programmes were implemented by ICRC missions or delegations in Argentina, Armenia, Azerbaijan, Brazil, Colombia, El Salvador, Georgia, Guatemala, Honduras, Iraq, Lebanon, Mexico, Nigeria, Peru, Senegal, Sri Lanka, Tajikistan and Ukraine, and an ICRC mission was conducted in Kosovo. In 2018 and 2019, the number of families that had benefited from an *accompaniment* programme was 5,500 and 5,100, respectively.

93. On 12 July 2019, the Law on Missing Persons of the Homeland War was adopted in Croatia, in recognition of the right of families to the truth. ICRC noted that in Bosnia and Herzegovina, some aspects of the law on missing persons had not been fully implemented yet, including on the creation of a fund to support the families of missing persons.

C. Legal situation of missing persons

94. Domestic law should clarify the legal situation of missing persons, including through provisions for the person concerned to be declared absent or missing, so that the families of missing persons are able to receive social and financial benefits and can handle the affairs of the missing person, without requiring the missing person to be declared formally deceased.

95. The Working Group on Enforced or Involuntary Disappearances noted that States should provide families of victims of disappeared persons with means to regularize their legal status in relation to disappeared persons after an appropriate period of time, but that relatives should not be required to declare them dead to do so. It encouraged a State to ensure that certificates of absence due to disappearance, which should allow individuals to complete all necessary administrative actions, were available in cases in which an enforced disappearance had been recorded ([A/HRC/45/13/Add.1](#); see also [CCPR/C/GC/36](#), para. 58). During the reporting period, the Working Group received allegations concerning the alleged imposition of the statute of limitations on cases of wartime victims seeking reparations through the judicial system (BIH 1/2020). It also welcomed the introduction of certificates of absence for family members of disappeared persons and encouraged further efforts to ensure that all families of disappeared persons were able to access appropriate social and medical measures ([A/HRC/42/40/Add.1](#), para. 16; and LKA 1/2020).

96. The Secretary-General and the United Nations High Commissioner for Human Rights expressed concern at the continued practice of withholding the bodies of Palestinians, that could amount to collective punishment and violate the prohibition of torture and ill-treatment and the obligations pursuant to article 27 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War ([A/HRC/43/70](#), para. 9; and [A/74/468](#), para. 25). In his briefings to the Security Council, the United Nations Special Coordinator for the Middle East Peace Process

²¹ See also ICRC, *Accompanying the Families of Missing Persons: a Practical Handbook* (2013). Available at www.icrc.org/en/publication/4110-accompanied-families-missing-persons-practical-handbook.

and Personal Representative of the Secretary-General to the Palestine Liberation Organization and the Palestinian Authority repeatedly raised concerns at the fate of two Israeli civilians and the bodies of two Israel Defense Forces soldiers missing in Gaza (see [S/PV.8429](#), [S/PV.8604](#) and [S/PV.8625](#)).

IX. Conclusions and recommendations

97. States and other relevant stakeholders have continued taking action regarding missing persons, including through the adoption of legislation, the establishment of institutions and mechanisms and the inclusion of the issue of missing persons in transitional justice processes. The number of missing persons, however, remains alarmingly high. The number of missing children and the impact on children whose family members went missing as a result of enforced disappearance are also of serious concern.

98. States should ensure sustained diplomatic engagement to foster and preserve political will to address the question of missing persons. The question should be addressed as part of efforts to settle and resolve armed conflicts.

99. States should prioritize prevention, preparedness and early action and are encouraged to strengthen international cooperation to establish or strengthen measures to prevent and address cases of missing persons. Prevention efforts should include reinforcing and developing initiatives in relation to children.

100. All States are once again encouraged to become parties to the International Convention for the Protection of All Persons from Enforced Disappearance, to incorporate its provisions into domestic law and to ensure the full implementation of those provisions, integrating child-sensitive approaches.

101. In the context of the COVID-19 pandemic, States and other stakeholders should take measures to preserve family unity, unless physical separation is required from a public health perspective or is otherwise in contradiction with the best interest of concerned family members. In such cases, all efforts should be made to ensure that separation is managed humanely and that its duration is limited to the amount of time strictly necessary. States and other stakeholders should take all feasible measures to prevent people from going missing, including during border crossings, medical evacuations and the application of quarantine and other measures in response to the pandemic.
