



# General Assembly

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## Seventy-ninth session

### Third Committee

Agenda item 71 (b)

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

#### **Azerbaijan and Liberia: draft resolution**

#### **Missing persons**

*The General Assembly,*

*Guided* by the purposes, principles and provisions of the Charter of the United Nations,

*Guided also* by the principles and norms of international humanitarian law, in particular the Geneva Conventions of 12 August 1949<sup>1</sup> and the Additional Protocols thereto of 1977,<sup>2</sup> as well as international standards and instruments of human rights, in particular the Universal Declaration of Human Rights,<sup>3</sup> the International Covenant on Economic, Social and Cultural Rights,<sup>4</sup> the International Covenant on Civil and Political Rights,<sup>5</sup> the Convention on the Elimination of All Forms of Discrimination against Women,<sup>6</sup> the Convention on the Rights of the Child<sup>7</sup> and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,<sup>8</sup>

*Recalling* the accession by 76 States to the International Convention for the Protection of All Persons from Enforced Disappearance,<sup>9</sup> and calling upon States that have not yet done so to consider signing, ratifying or acceding to it as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances,

*Recalling also* all previous relevant resolutions on missing persons adopted by the General Assembly, as well as the resolutions and decisions adopted by the

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<sup>1</sup> United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

<sup>2</sup> *Ibid.*, vol. 1125, Nos. 17512 and 17513.

<sup>3</sup> Resolution 217 A (III).

<sup>4</sup> See resolution 2200 A (XXI), annex.

<sup>5</sup> *Ibid.*

<sup>6</sup> United Nations, *Treaty Series*, vol. 1249, No. 20378.

<sup>7</sup> *Ibid.*, vol. 1577, No. 27531.

<sup>8</sup> A/CONF.157/24 (Part I), chap. III.

<sup>9</sup> United Nations, *Treaty Series*, vol. 2716, No. 48088.



Commission on Human Rights and the Human Rights Council, and Security Council resolution [2474 \(2019\)](#) of 11 June 2019,

*Recalling further* General Assembly resolution [77/220](#) of 15 December 2022 as well as all previous resolutions and decisions adopted by the Commission on Human Rights and the Human Rights Council on the right to the truth,

*Noting with deep concern* the growing number of armed conflicts in various parts of the world, often involving serious violations of international humanitarian law and international human rights law,

*Noting* that the issue of persons reported missing in connection with international or non-international armed conflicts, in particular those who are victims of violations of international humanitarian law and international human rights law, continues to have a negative impact on efforts to put an end to those conflicts and to facilitate peace and reconciliation, and inflicts grievous suffering on the families of missing persons, and stressing in this regard the need to address the issue from, inter alia, a humanitarian and rule of law perspective, recalling the obligations of States and of parties to armed conflict to clarify the fate and whereabouts of missing persons,

*Expressing its concern* about the dramatic increase since 2014 in persons reported missing in connection with armed conflict, and recognizing that it is critical for States to address the issue holistically, from prevention to the tracing, location, identification and return of missing persons,

*Considering* that the problem of missing persons may raise questions of international humanitarian law and international human rights law, as appropriate,

*Bearing in mind* that cases of missing persons involve conduct that may constitute criminal offences, and stressing the importance of ending impunity for violations of international humanitarian law and international human rights law with respect to missing persons,

*Expressing its deep concern* that thousands of migrants continue to die or go missing each year along perilous routes on land and at sea, in transit and destination countries, and recalling in this regard the adoption of the Progress Declaration of the International Migration Review Forum<sup>10</sup> which, inter alia, requested the Secretary-General to include actionable recommendations on strengthening cooperation on missing migrants and providing humanitarian assistance,

*Cognizant* that States that are parties to an armed conflict have a responsibility for countering the phenomenon of missing persons, taking all appropriate measures to prevent persons from going missing, including, when appropriate, effectively investigating the conditions relating to persons going missing and determining the fate of missing persons, and for recognizing their accountability as regards implementing the relevant mechanisms, policies and laws, while noting the importance for States to take steps to ensure the forensic recovery and identification of remains, where possible,

*Noting* that accountability, including the promotion of truth, justice, reparations and guarantees of non-recurrence, is one of the key components of addressing the issue of missing persons,

*Bearing in mind* the effective search for and identification of missing persons using forensic sciences and new and emerging technologies, and recognizing that great technological progress has been made in this field, including DNA forensic analysis, which can significantly assist efforts to identify missing persons and to

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<sup>10</sup> Resolution [76/266](#), annex.

investigate violations of international humanitarian law and international human rights law,

*Recognizing* the potential offered by new and emerging technologies for the search for and identification of missing persons, and acknowledging, in this regard, the opportunity to include these technologies in search activities and criminal investigations in combination with traditional approaches and techniques, while safeguarding personal data protection and privacy rights,

*Recognizing also* that the establishment and effective work of competent national institutions can play a crucial role in clarifying the fate of missing persons in connection with armed conflict,

*Bearing in mind* that the question of missing persons entails consequences not only for the victims themselves, but also for their families, especially women, youth, children and older persons, and in this regard recognizing the importance of addressing the legal situation of missing persons in connection with armed conflict, supporting their family members through national policies that include a gender perspective, as appropriate, and ensuring their participation in relevant processes related to actions taken in response to cases of missing persons, as well as their access to information and effective remedies, and stressing, in this regard, the importance of ensuring the protection of the families of missing persons and all individuals involved in the search, investigation and accountability processes against threats and violence, such as harassment, blackmail, ill-treatment and intimidation, including through the use of information and communications technology,

*Noting*, in this regard, the progress made by coordination mechanisms, established in different parts of the world, aiming at exchanging information and identifying missing persons, which have contributed to informing families of the fate and whereabouts of their missing relatives,

*Recognizing* that respect for and implementation of international humanitarian law can reduce the number of cases of missing persons in armed conflict, and in this regard stressing the importance of encouraging greater understanding of and respect for international humanitarian law,

*Stressing* the importance of measures to prevent persons from going missing in connection with armed conflict, which may include enacting national legislation, ensuring the registration of detainees and notification upon their detention and allowing them to correspond with their families, ensuring the right to be treated with humanity and respecting the human rights of all detainees and persons unaccounted for, providing appropriate training for armed forces, producing and providing proper means of identification, the establishment of information bureaux, grave registration services and registers of deaths, ensuring accountability in cases of missing persons and complying with obligations under international humanitarian law regarding persons deprived of their liberty,

*Noting* that the adequate, respectful and dignified management of the dead and good practices in casualty recording can complement efforts to prevent persons from going missing and help to clarify the fate and whereabouts of persons unaccounted for in armed conflict,

*Stressing* the need to raise public awareness of the problem of missing persons as an important concern, as well as relevant provisions of international humanitarian law and human rights law,

*Noting* the Agreement on the Status and Functions of the International Commission on Missing Persons,<sup>11</sup> which established the Commission as an international organization,

*Noting with appreciation* the ongoing international and regional efforts to address the question of missing persons and the initiatives undertaken by international and regional organizations in this field,

*Noting* the work of the Global Alliance for the Missing with the aim of collectively bringing to bear diplomatic, political and financial capacities and influence to improve the prevention of, and response to, the issue of missing persons,

*Taking note* of the report of the Secretary-General,<sup>12</sup>

1. *Urges* States to strictly observe and to respect and ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949 and, where applicable, in the Additional Protocols thereto of 1977;

2. *Calls upon* States parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict, to account for persons reported missing as a result of such a situation and, in cases of missing persons, to take such measures, as appropriate, in order to ensure thorough, prompt, impartial and effective investigations and the prosecution of offences linked to missing persons, consistent with their obligations under international law, with a view to full accountability, access to justice and adequate reparations;

3. *Calls upon* States to take measures to prevent persons from going missing in connection with armed conflict, including by fully implementing their obligations and commitments under international humanitarian law and international human rights law, including through the facilitation of the reunion of families dispersed as a result of armed conflict, and to allow for the exchange of family news, consistent with their international obligations;

4. *Urges* States to avoid harm to civilians as an important factor in preventing persons from going missing in connection with armed conflict, including in minimizing the military use of civilian infrastructure, in accordance with applicable international law;

5. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflict and the importance of ensuring their participation in relevant processes related to actions taken in response to cases of missing persons;

6. *Also reaffirms* that each party to an armed conflict, as soon as circumstances permit and, at the latest, from the end of active hostilities, shall search for persons who have been reported missing by an adverse party and ensure that all relevant information on those who died as a result of armed conflict is recorded;

7. *Calls 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 the armed conflict, without any adverse distinction, 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;

8. *Recognizes* the need for appropriate means of identification and for the collection, protection and management of data on missing persons and unidentified

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<sup>11</sup> United Nations, *Treaty Series*, vol. 3072, No. 53043.

<sup>12</sup> [A/79/282](#).

remains, consistent with applicable international and national law, and urges all concerned States to cooperate with each other and with other concerned actors working in this area by, inter alia, providing all relevant information related to missing persons, including on their fate and whereabouts;

9. *Expresses concern* at the impediments caused by landmines, explosive remnants of war and improvised explosive devices, in certain instances, to efforts on identifying the whereabouts of missing persons, and calls upon States concerned to cooperate to facilitate the safe search for human remains and retrieval operations;

10. *Requests* 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;

11. *Expresses its support* for the efforts of the International Committee of the Red Cross in seeking access to information on persons reported missing, and calls upon all parties to armed conflict to comply with their commitments in respect of such access and to cooperate with the International Committee of the Red Cross and its Central Tracing Agency in addressing the issue of missing persons, consistent with applicable obligations under international humanitarian law, and to adopt a comprehensive approach to this issue, including all such legal and practical measures and coordination mechanisms as may be necessary, based on humanitarian considerations only;

12. *Urges* States that are parties to an armed conflict to cooperate, consistent with their international obligations, in order to effectively solve cases of missing persons, including by providing mutual assistance in terms of information-sharing, victim assistance, location and identification of missing persons and recovery, identification and return of human remains and, if possible, by identifying, mapping and preserving burial sites;

13. *Invites* States to encourage interaction between competent organizations and institutions, such as national commissions on missing persons, which play a crucial role in clarifying the fate of persons missing in connection with armed conflict and providing support to the families of the missing;

14. *Urges* States, and encourages intergovernmental and non-governmental organizations, to take all necessary measures at the national, regional and international levels to address the problem of persons reported missing in connection with armed conflict without any adverse distinction and to provide appropriate assistance, as requested by the concerned States, and welcomes in this regard the establishment and efforts of commissions and working groups on missing persons;

15. *Calls upon* States, without prejudice to their efforts to determine the fate of persons reported missing in connection with armed conflict, 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, youth, children, older persons and persons with disabilities, in such fields as social welfare, psychological and psychosocial support, financial matters, family law and property rights;

16. *Invites* 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 apply to preventing and resolving cases of missing persons in connection with armed conflict;

17. *Also invites* States, national institutions and, as appropriate, intergovernmental, international and non-governmental organizations to exchange best practices and technical recommendations and to promote cooperation, as

appropriate, including between relevant human rights mechanisms and procedures related to missing persons, pertaining, inter alia, to the search for and clarification of the fate and whereabouts of missing persons, the use and development of digital tools, forensic analysis and identification and addressing the needs of families;

18. *Further invites* 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 relevant applicable laws and regulations;

19. *Stresses* the need to address the issue of missing persons as a part of peace and peacebuilding processes, with reference to all justice and rule of law mechanisms, including the judiciary, parliamentary commissions and truth-finding mechanisms, on the basis of transparency, accountability and public involvement and participation, including the participation of the families of missing persons in relevant processes;

20. *Welcomes* the progress made in clarifying the fate of missing persons in connection with armed conflict;

21. *Invites* relevant human rights mechanisms and procedures, as appropriate, to address the problem of persons reported missing in connection with armed conflict in their forthcoming reports to the General Assembly;

22. *Requests* the Secretary-General to continue to seek further the views of Member States and relevant agencies and to submit to the Human Rights Council at its relevant session and to the General Assembly at its eighty-first session a comprehensive report on the implementation of the present resolution, including relevant practical recommendations;

23. *Reiterates its invitation* to the President of the General Assembly to convene an informal biennial meeting of the General Assembly, and requests the Secretary-General to brief the Assembly during such meetings on the comprehensive report on the implementation of the present resolution, to be followed by a dialogue;

24. *Requests* 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;

25. *Decides* to consider the question at its eighty-first session.

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