



INTER-PARLIAMENTARY UNION

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***Resolution adopted by consensus by the 115<sup>th</sup> IPU Assembly  
(Geneva, 18 October 2006)***

**MISSING PERSONS**

The 115<sup>th</sup> Assembly of the Inter-Parliamentary Union,

*Deeply concerned and alarmed* by the continuing suffering of families of persons missing as a result of armed conflict or situations of internal violence and by enforced disappearances,

*Considering* that the problem of missing persons is a question of both international humanitarian law and international human rights law,

*Guided* by the principles and standards of international humanitarian law, in particular the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 1977; and by international human rights law, in particular the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23),

*Noting* resolution 2005/66 on "The Right to Truth", adopted by the United Nations Commission on Human Rights on 20 April 2005,

*Recalling* the Declaration on the Protection of all Persons from Enforced Disappearances, adopted by the United Nations General Assembly in its resolution 47/133 of 18 December 1992,

*Noting* the outcomes of the International Conference of Governmental and Non-Governmental Experts on Missing Persons, held in Geneva, Switzerland, from 19 to 21 February 2003,

*Noting also* that the 28<sup>th</sup> International Conference of the Red Cross and Red Crescent, held in Geneva, Switzerland, from 2 to 6 December 2003, adopted the Agenda for Humanitarian Action, in particular General Objective 1: "Respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and their families",

*Considering* the Inter-American Convention on Forced Disappearances, adopted on 9 June 1994, and resolutions AG/RES. 2134 (2005) and AG/RES. 2231 (2006) on persons who have

disappeared and assistance to members of their families, adopted at the 35<sup>th</sup> and 36<sup>th</sup> General Assemblies of the Organization of American States respectively,

*Convinced* that respect for international humanitarian law by all parties involved in an armed conflict can, in large measure, help forestall enforced disappearances,

*Aware* of the need for States to adopt a comprehensive national policy on missing persons encompassing all the measures needed to forestall disappearances, elucidate the fate of missing persons, meet the needs of the families of missing persons, acknowledge the facts and determine responsibility for events that have led to disappearances in situations of armed conflict and internal violence and in the case of enforced disappearances,

*Convinced* that governments bear primary responsibility for forestalling disappearances and determining the fate of missing persons, and that they must recognize their accountability for implementing the relevant mechanisms, policies and laws,

*Affirming* the individual right of families to know and have information about the fate of their loved ones who are missing as a result of an armed conflict, a situation of internal violence or an enforced disappearance, including their whereabouts and, if they are dead, the circumstances and cause of death,

*Reiterating* the importance of combating impunity in preventing violations of international humanitarian law and international human rights law,

*Recalling* that the Rome Statute establishing the International Criminal Court, adopted on 17 July 1998, defines the enforced disappearance of persons as constituting a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack,

*Observing with great concern* that the families, as long as they remain uncertain about the fate of their loved ones, are incapable of rebuilding their lives and communities, which often undermines relationships between communities for several generations,

*Paying tribute* to a number of international, regional and local organizations – both intergovernmental and non-governmental – and in particular the International Red Cross and Red Crescent Movement, which, throughout the world, strive to elucidate the fate of persons missing as a result of armed conflict or situations of internal violence or enforced disappearance, to maintain and restore family links and support the families of missing persons,

*Convinced* of the critical role that the Inter-Parliamentary Union and parliaments can play in resolving the problem of missing persons,

*Highlighting* the need for cooperation among States in order to effectively resolve cases of missing persons by providing mutual assistance in information sharing, locating and identifying missing persons, and returning human remains,

1. *Urges* all parties to a conflict or situation of internal violence to take all the necessary steps to forestall disappearances in accordance with the applicable rules of international humanitarian law, and *urges* States to uphold and protect human rights in every situation in order not to be party themselves to enforced disappearances and to prohibit them;

2. *Urges* States to comply with the rules protecting the rights of persons in order to prevent enforced disappearances, and in particular *invites* States that have not already signed, ratified or implemented the above-mentioned treaties to do so without delay;
3. *Urges* the United Nations General Assembly to adopt the Convention on the Protection of All Persons against Enforced Disappearances, and *encourages* States to ratify it as soon as possible after its adoption;
4. *Requests* parliaments to bring the problem of missing persons to the attention of their respective governments using all the means at their disposal, so that comprehensive national policies are adopted to resolve the problem of missing persons, enhance assistance to families of victims and forestall further disappearances;

These national policies should entail:

- (a) Passage and enactment of a national law on missing persons, accompanied by the necessary regulatory and administrative measures, which cover notably the following aspects:
  - Recognition of the families' right to know and, therefore, their right to information about the fate of their missing loved ones;
  - Recognition of a legal status for missing persons according to standardized rules such as those proposed by the International Committee of the Red Cross in *Recommendations for the Development of a Domestic Law on the Missing and their Families*;
  - Criminalization under national criminal legislation of violations of international humanitarian norms and international human rights standards applicable to disappearances, and in particular criminalization of enforced disappearances;
  - Establishment of a mechanism for investigation and prosecution to guarantee the enforcement of the above-mentioned national criminal legislation;
  - Recognition of the rights of the families of missing persons while their loved ones are missing, paying particular attention to vulnerable persons;
  - Implementation of measures to ensure that all persons, in particular minors and other vulnerable persons, carry some form of personal identification;
  - Implementation of measures to ensure that members of armed forces and security forces bear a form of personal identification, at least an identity badge, and that these forms of identification are mandatory and properly used;
  - The right to exchange family news in all circumstances;
  - In the particular case of persons deprived of their freedom, implementation of measures to guarantee that information concerning the individual's capture or arrest, address and state of health is conveyed to the families, attorneys, consular authorities, or any other person with a legitimate interest in their situation; and that contact is also maintained with such individuals;
  - Implementation of measures to ensure that the release of such persons is verifiable, that their security is guaranteed and that their families or other persons designated by them are properly notified;
  - The right to be registered and detained in an officially recognized facility;
  - Protection of persons against the risk of disappearance, in particular persons deprived of their liberty, by authorizing regular, independent and unrestricted

- spot visits by the International Committee of the Red Cross or another independent organization, be it national or international;
- Establishment of a national information bureau charged with centralizing and transmitting information on the wounded, the sick and the shipwrecked, as well as on persons deprived of their liberty and deceased persons, in compliance with legal and ethical norms regarding the protection of personal data, including medical and genetic information;
  - Identification and proper handling of human remains;
  - No statute of limitations on offences of enforced disappearance of persons, abduction of minors and suppression of identity when committed by State agencies or with the State's approval, protection or complicity, or on any other crime against humanity;
  - No recourse to pardon, amnesty or similar political measures to terminate the criminal prosecution or punishment of these crimes;
  - Ineligibility to hold public office when, in the view of the constitutional or competent legal authority, the accused is considered to have perpetrated such crimes;
  - The right of minors who have been illegally taken away from their parents and relatives to find out their true identity;
  - Protection of witnesses to disappearances and of their families;
- (b) Putting in place national implementation and coordination mechanisms, notably through national commissions entrusted with implementing international humanitarian law;
- (c) Examination and systematic resolution of the question of missing persons at the end of a conflict in the framework of a process aimed at establishing and maintaining lasting peace and at implementing, where necessary, appropriate independent and impartial national mechanisms of a judicial and non-judicial nature, designed to shed light on the fate of missing persons and meet the needs of families and communities;
- (d) Establishment of competent parliamentary bodies on international humanitarian law, responsible *inter alia* for following up the question of missing persons;
- (e) Appropriate training of State agents in international humanitarian law and international human rights law, as well as in national legislation on missing persons and its implementation;
- (f) Allocation of necessary funds;
5. *Calls on* States to implement sanctions for destroying or unlawfully withholding information on missing persons, while also explicitly defining the circumstances in which exceptions to these rules may be necessary;
6. *Requests* States to extend these national policies and their implementation to other contexts of disappearances in order to guarantee in all circumstances equal protection to missing persons and their families;

7. *Invites* parliaments, in drafting and implementing these policies, to encourage the competent national authorities to seek the expertise of organizations that deal with the issue of disappearances, notably the International Committee of the Red Cross;
8. *Invites* States to cooperate at the international level in order to effectively solve cases of missing persons by providing mutual assistance in terms of information sharing, victim assistance, location and identification of missing persons, and in exhuming, identifying and returning human remains, and *calls for* the creation of an international database for that purpose;
9. *Invites* parliaments to support the work of the United Nations Working Group on Enforced or Involuntary Disappearances and to encourage States to accept the Group's requests to conduct visits;
10. *Encourages* parliaments to get in contact with the National Red Cross or Red Crescent Society in order better to familiarize themselves with and support its activities to assist missing persons and their families;
11. *Invites* parliaments to cooperate through the exchange of information, experiences and expertise on parliamentary action taken to ensure implementation of this resolution;
12. *Requests* the Inter-Parliamentary Union to keep this question on its agenda, through the Committee in charge of promoting respect for international humanitarian law, not only regarding disappearances resulting from armed conflict or a situation of internal violence;
13. *Invites* the IPU to develop in a timely manner a handbook for parliamentarians on missing persons;
14. *Encourages* the IPU to set up a system of inter-parliamentary pledges to support and finance the translation, in as many languages as possible, of such a handbook for parliamentarians.