



Third Standing Committee  
Democracy and Human Rights

C-III/115/DR-am.1  
27 September 2006

## MISSING PERSONS

### *First batch of amendments to the preliminary draft resolution submitted by the delegations of Canada, China and India*

#### PREAMBLE

##### Preambular paragraph 1

Delete the paragraph:

~~(1) ——— Deeply concerned and alarmed by the suffering caused by persons missing as a result of armed conflict or situations of internal violence and by enforced disappearances,~~  
(India)

##### Preambular paragraph 11

Amend to read as follows:

(11) *Convinced* that governments are first and foremost responsible for forestalling disappearances and determining the fate of missing persons; **and that governments must recognise their accountability for implementing the mechanisms, policies, and laws needed to forestall such disappearances and determinate the fate of missing persons,**  
(Canada)

##### Preambular paragraph 14

Delete the paragraph:

~~(14) ——— 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,~~

(India)

New preambular paragraph 17bis

Add a new paragraph after preambular paragraph 17 to read as follows:

**(17bis) *Highlighting the need for cooperation among states in order to effectively resolve missing persons cases by providing mutual assistance in information sharing, locating and identifying missing persons, and returning human remains,***

*(Canada)*

**OPERATIVE PART**

Operative paragraph 1

Amend to read as follows:

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 order to ~~forestall~~ **prohibit** enforced disappearances;

*(Canada)*

Operative paragraph 3

Amend to read as follows:

- ~~3. Encourages the United Nations and its competent bodies to continue their work with a view to adopting a draft convention on the protection of all persons against enforced disappearances;~~

[Or if the convention is open for signature and ratification prior to the 115th IPU Assembly: Encourages States to ~~ratify~~ **explore the possibility of ratifying** the Convention on the protection of all persons against enforced disappearances;]

*(China)*

Operative paragraph 4(a)

Amend to read as follows:

4. *Requests* parliaments to bring to the attention of their respective governments the problem of missing persons using all the means at their disposal, so that comprehensive national policies are adopted to resolve the problem of missing persons in situations of armed conflict or situations of internal violence, 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:~~

Delete all bullet points following paragraph 4(a):

- ~~▪ 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;~~
- ~~▪ Sanctions provided under the national criminal legislation for violations of international humanitarian and international human rights applicable to disappearances, and in particular sanctions for enforced disappearances;~~
- ~~▪ Recognition of 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, bear 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;~~
- ~~▪ Exchange of family news in all circumstances;~~
- ~~▪ In the particular case of persons deprived of their freedom, implementation of measures to guarantee that information is communicated to the families, attorneys or any other person with a legitimate interest in their situation; and contact with families and attorneys;~~
- ~~▪ The right to be registered and detained in an official place;~~
- ~~▪ 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 other independent organization be it national or international;~~
- ~~▪ Establishment of a national information bureau charged with centralizing and communicating information on the wounded, the sick and the shipwrecked, as well as on persons deprived of their liberty and deceased persons;~~
- Proper handling of human remains;

(China)

Amend the second bullet point as follows:

(...)

- 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***;

(...)

(Canada)

Amend the seventh, eighth and ninth bullet points as follows:

(...)

- **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 communicated 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** ~~with families and attorneys;~~
  - The right to be registered and detained in an officially **recognised facility** ~~place~~;
- (...)

*(Canada)*

Delete the tenth bullet point:

- ~~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 other independent organization be it national or international;~~

*(India)*

Amend the eleventh bullet point as follows:

- (...)
- Establishment of a national information bureau **in time of conflict** charged with centralizing and communicating information on the wounded, the sick and the shipwrecked, as well as on persons deprived of their liberty and deceased persons;

*(Canada)*

New operative paragraph 4(c)bis

Add a new paragraph after operative paragraph 4(c) to read as follows:

**4(c)bis Ensuring that investigations are undertaken into enforced disappearances on a systematic basis, and establishing the right to bring cases forward before judicial authorities to challenge the lawfulness of a deprivation of liberty;**

*(Canada)*

New operative paragraph 4bis

Add a new paragraph after operative paragraph 4 to read as follows:

**4bis. Urges States to pay particular attention to the appropriate protection and management of personal data, including ensuring that consent is obtained for the collection and use of data, ensuring that the collection and use of data is limited to situations where such actions are strictly necessary, ensuring that data is not disclosed for purposes other than for those for which it was collected, and ensuring that the data is destroyed once the purpose for its collection has been fulfilled. States are called upon to implement sanctions for destroying or unlawfully withholding information, while also explicitly defining those circumstances in which exceptions to these rules may be necessary;**

*(Canada)*

New operative paragraph 6bis

Add a new paragraph after operative paragraph 6 to read as follows:

- 6bis. Urges States to cooperate internationally in order to effectively resolve missing persons cases by providing mutual assistance in terms of information sharing, victim assistance, locating and identifying missing persons, and exhuming, identifying and returning human remains;**

*(Canada)*

Operative paragraph 7

Amend to read as follows:

7. *Invites* parliaments to support the work of the United Nations Working Group on Enforced or Involuntary Disappearances and to encourage States to ~~accept~~ **consider positively, where relevant** the Group's requests to conduct visits;

*(India)*