

# THE MISSING PROJECT

**A PROJECT OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS:**

**Action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families.**

During 2002, one EAAF member made two trips to Switzerland to participate in workshops under the auspices of the International Committee of the Red Cross (ICRC). Both events were part of a project called *The Missing*, an ICRC initiative to raise awareness about the problem of those “unaccounted for” in conflict zones, and to codify procedures for assisting victims and their families. Governmental and non-governmental experts from different parts of the world attended some or all the six workshops that were part of *The Missing* project. EAAF’s participation in this project was financed in part by the Argentine delegation to the ICRC.

## BACKGROUND

The ICRC’s project *The Missing* arose in response to problems in the investigations of violent episodes in the 1990’s, during which there were insufficient guidelines for attending to the families of disappeared persons.<sup>i</sup> Initiated in 2000, *The Missing* is grounded in the Red Cross/Red Crescent mandate, “conferred on it by the Geneva Conventions and their Additional Protocols... Its objectives include ensuring that people are protected against threats to their lives, physical integrity and dignity, preventing disappearances, restoring family ties, and ascertaining the fates of people whose families are without news of them.”<sup>ii</sup> “Missing person” or “unaccounted for” was understood during the project in its broader sense: all those whose families are without news of them and/or they are reported missing on the basis of reliable information”. People become unaccounted for due to many reasons, including displacement, death in action during armed conflict, or forced or involuntary disappearance, among others.

Because the ICRC and national Red Cross and Red Crescent organizations have unique access to combat areas and locations in which prisoners are held, it is

frequently the only party willing and able to relay information about missing individuals. In situations of armed conflict, the ICRC and the Red Cross and Red Crescent accept requests from families who have no news of relatives and wish to have their whereabouts traced. At the same time, its work is related to that of other United Nations agencies and national and inter-governmental bodies as well as non-governmental groups that approach the problem of the missing. The need to share experiences and produce conclusions that will improve the work around the problem of missing people was central to the workshops. In sum the main goals were:

A review of all methods that could be employed to prevent people from becoming “unaccounted for” in situations of armed conflict or internal violence and more effective responses to the needs of the families that have lost contact with their loved ones;

Agreement on common and complementary recommendations and operational practices among all those working to prevent people from becoming “unaccounted for;”

Raising this concern higher on the agendas of government authorities, the United Nations and non-governmental organizations<sup>iii</sup>

During 2001-2002, the project’s coordinators organized a series of six workshops, two electronic workshops and three special studies devoted to improving and codifying methods for future interventions. The two electronic workshops were: “Human Remains and Forensic Sciences” and “The legal protection of personal data and human remains”; the three studies were on “Mourning processes and commemoration”; “Overcoming the tensions between families and judicial procedures” and “A study on existing mechanisms to clarify the fate of people unaccounted for.”

The six workshops were: “Members of Armed Forces/armed groups: prevention, identification, family news, killed in action”; “Human Remains: Law, Politics and Ethics”; “Support to Families of people unaccounted for”; “Human Remains: management of remains and information on the dead”; “Means to prevent disappearances and to process missing cases”; and “Mechanisms to solve issues regarding people unaccounted for”.

### *EAAF’s Participation*

On May 20-25, and again on July 10-14, 2002, EAAF member Luis Fondebrider participated as an expert consultant in two of the six workshops held at Ecogia, the ICRC’s training center near its headquarters in Geneva.

The May sessions were titled “Human Remains: Law, Politics, and Ethics.” During the workshops, over twenty international forensics experts discussed aspects of forensic investigations with special emphasis on the relationship between investigators and families of the victims. Special topics included ethical codes in applied forensic science, and legal and humanitarian aspects of exhumations and DNA analysis.

The materials generated during the workshop were incorporated into a restricted-use online database, which has become one of the most extensive combined resources on forensics, disappearance, and families of the disappeared. EAAF’s direct contributions included a form used by the team to collect ante-mortem physical information about victims, and another used for information about burial sites.

The July event was called “Human Remains: Management of Remains and Information on the Dead.” At the ICRC’s request, Fondebrider made a presentation and coordinated a panel discussion on the needs of victims’ relatives during exhumations.

Based in part on EAAF’s recommendations, the group agreed upon a series of points for advocacy in the wake of violent episodes.<sup>iv</sup> EAAF was particularly interested

in emphasizing the juridical, psychological, political, economic, and humanitarian aspects of forensic investigations. During discussion, Fondebrider also advocated in favor of the right of victims’ families to access information and procedures such as the right to be present during exhumations, and training local forensic experts during large-scale investigations.

## MAIN CONCLUSIONS:

In February 2003, organizers of *The Missing* presented conclusions of the six workshops adopted by consensus by all participants to the ICRC’s Congress in Geneva. The *Observations and Recommendations*, are not legally binding but contain practical guidelines for ICRC, Red Cross/Red Crescent staff worldwide and all participants of the project. In his introduction to the *Observations and Recommendations*,<sup>v</sup> Mr. Nicolas Michel, Chairman of the Plenary, and head of the Directorate of Public and International Law, Federal Department of Foreign Affairs, Switzerland, noted that the need to recognize the **right to know** was strongly advocated by numerous participants, although how or when or even if this should take place was not uniformly agreed upon.<sup>vi</sup>

The following *Recommendations and Observations*, apply not only to States but also to armed groups within a conflict. While all of the conclusions are important, here we reproduce the main points related to EAAF’s work in forensics and human right issues:

“The participants in this Conference

(II.) *Recognizing* that uncertainty about the fate of their family members is a harsh reality for countless families, including relatives and close friends, who are themselves also victims of the situation;

(III.) *Recognizing* that until they know whether their family members are alive or dead, families are unable to gain closure on the violent events that disrupted their lives and to move on to personal or community rehabilitation and reconciliation;

VII.) *Convinced* of the need to take action to prevent persons from becoming unaccounted for, to ascertain their fate, to assist their families and to hold accountable those responsible for events leading to persons becoming unaccounted for;

Make the following recommendations and observations and encourage their dissemination and application:

2. it is essential that families are allowed to know the fate, including the whereabouts and, if dead, the cause of death, of their family members who are unaccounted for.
7. Every effort should be made to respect the cultural, social and religious or spiritual context specific to each situation.

#### 9. *Clarification of the fate of persons unaccounted for*

It is crucial that families receive information on the individual fates of their unaccounted for family members. Families and communities also need both acknowledgement of the events leading to persons becoming unaccounted for and perpetrators held accountable. Measures that can be taken include:

- 9.1 government authorities and armed groups must enable independent investigations to be carried out to clarify the fate of persons unaccounted for and to provide information;
- 9.2 avoiding obstruction of, interference with or impediments to the clarification of the fate of persons unaccounted for;
- 9.3 setting up, whenever necessary, complementary mechanisms, judicial or non-judicial, to respond to the families' needs;
- 9.4 addressing issues related to reparation;
- 9.5 providing to the family, in accordance with judicial guarantees and procedures and privacy rights, information collected during criminal investigations that sheds light on the fate of a person unaccounted for.

#### 11. *Management of Human Remains and of information on the dead:*

The principle responsibility for proper handling of all the dead without adverse distinction, and in providing information to the families with a view to preventing anxiety and uncertainty lies with government authorities and armed groups. Measures that can be taken include:

- 11.1 ensuring that all feasible identification measures are taken to identify the human remains of those who died and to record their identity;
- 11.2 avoiding obstruction of, interference with or impediments to the identification of human remains;
- 11.3 issuing death certificates;
- 11.4 ensuring that all those involved respect legal rules and professional ethics applicable to the management, exhumation and identification of human remains;
- 11.5 ensuring that forensic specialists, whenever possible, carry out procedures to exhume and identify human remains;
- 11.6 ensuring adequate training to all persons collecting information on the dead and handling human remains;
- 11.7 beginning a process of exhumation and identification only once a framework has been agreed upon by all those concerned and ensuring that the framework includes:
  - B. A. the establishment of protocols for exhumations, *ante mortem* data collection, autopsies and identification based on scientifically valid and reliable methods and technologies and/or customary, clinical or circumstantial evidence that are deemed appropriate and which have been previously adopted by the scientific community;
  - B. appropriate means of associating the

communities and the families in exhumation, autopsy and identification procedures;

C. procedures for handing over the human remains to the family;

11.8 respecting and developing professional ethics and standards of practice for forensic specialists working in international contexts.

### 13. *Families and mourning*

Respect for the dead and for local rites supports peace and social order. The process by which families are informed that a family member has died and human remains and/or personal effects are returned needs to be well prepared. In addition:

13.1 the dead and the mourning practices of individuals and communities concerned need to be respected in all circumstances;

13.2 commemorations, the planning and organization of which should be left to families and communities concerned, need to be supported.”

Participants to the Electronic Workshop *Human Remains and Forensic Sciences*, and to the workshops *Human Remains: Law, Politics and Ethics*; and/or *Human Remains: management of remains and of information on the dead* included:

ICRC, Health and Relief Division & Legal Division: Dr. Robin Couplan, Health Coordinator, Dr. Jonathan Beynon, Medical Delegate, Ms. Claire Wilson, Health Delegate; Ms. Laura Olson, Legal Adviser, ICRC Project “The Missing”; Dr. Clyde C. Snow, Forensic Anthropologist, USA; Prof. Stephen Cordner, Monash Univ. Director, Victorian Inst. of Forensic Medicine, Melbourne, Australia; Prof. Dr. Barend A.J. Cohen, director of Medico Legal Dept, Netherlands School of Public Health; Dr. William Haglund, Physicians for Human Rights, USA; Ms. Tracy Ulltveit-Moe, researcher, Americas Program, Amnesty International; Lic. Luis Fondebrider, anthropologist, EAAF; Dr. Vivienne Nathanson, Head, Professional Resources and Research Group, British Medical Assoc.; Prof. Dr. Markus Rothschild, German Society of Forensic Medicine; Dr. Djordje Alempijevic, forensic pathologist, Institute of Forensic Medicine, Yugoslavia; Prof. Dr. Davor Strinovic, Coordinator of Process of Identification, Institute of Forensic Medicine and Criminology, Croatia; Mr. Federico Andreu, legal adviser, International Commission of Jurists, Colombia; Dr. Morris Tidball Binz, Director, International Service for Human Rights; Dr. Alex Kirasi Olumbe, Chief Government pathologist, Ministry of Health, Medico-Legal services, Kenya; Mr. Ivan Szekely, Councillor, The Open Society Institute; Dr. Davdio Tanavale, chairman, President Office, Human Disaster Management Council, Sri Lanka; Mr. Roberto Ricci, Policy Planning and Methodology Team, Human Rights Officer, United Nations- Office of the High Commissioner for Human Rights; Mr. Eric Stover, Director, Univ. of California, Human Rights Center, USA; Prof. Derrick Pounder, forensic pathologist, Univ. of Dundee,

Scotland, Advisory Board of International Commission on Missing Persons; Mr. Cristian Gehrig, head DNA laboratory, and Dr. Romani La Harpe, head, Anatomic-pathology Unit, Univ. of Geneva, Faculty of Medicine, Medical Legal Institute; Mr. Eric Sottas, Director, World Organization Against Torture; Ms. Sophie Martin, head, Mr. Laurent Fellay, deputy head, Mr. Thierry Schreyer, deputy head, and Ms. Ariane Tombet-Cauchaj, deputy head; Ms. Shari Eppel, clinical psychologist and director, AMANI Trust- Bulawayo; Dr. Sergey Glebovich Kharlamov, Chief manager of molecular genetic laboratory, Center for Forensic Medicine and Criminalistic Examination, Ministry of Defense, Russia Federation; Dr. Fernando Iregui Camelo, Ombudsman Office, Commission Searching for Disappeared Persons, Colombia; Mr. Amor Masivic, Chairman, Federal Commission for Tracing Missing Persons, Bosnia & Herzegovina; Mr. Freddy Peccerelli, Executive Director, Guatemala Forensic Anthropology Foundations; Mr. Erwin F. Huffine, Family Assoc. Development Program, ICMP-USA; Prof. Jehuda Hiss, Director, Forensic Pathology, Ministry of Health, The National Center of Forensic Medicine, Israel; Mr. Phil ya Nangoloh, Executive Director, National Society for Human Rights, Namibia; Ms. Tarja Formisto, Missing Person Coordinator, forensic anthropologist, Organization for Security and Cooperation in Europe, Mission in Kosovo; Mr. Bereket Woldeyohannes, Consul, Permanent Mission of Eritrea; Ms. Ketevan Merebovna Eremeishvili, database manager, State Commission in charge of Searching of the Fighters Lost in Abkhazia and Reserving rights of their families, Georgia; Mr. Stephen Raymond Upton, Deputy Chief of Investigations, U.N. International Criminal Tribunal for Former Yugoslavia; Ms. Gillian Kitley, Human Rights Officer, UN General Secretariat, Office of the Under-Secretary-General for Peacekeeping; Mr. Pierre Guberan, UN General Secretariat, Committee on Missing Persons in Cyprus; Dr. Cristian Orrego, Univ. of California- Human Rights Center and DNA Laboratory, Dept. of Justice, State of California, USA; Prof. Christopher Mark Milroy, forensic pathologist, Univ. of Sheffield/ Nottingham, UK and Northern Ireland.

Participants in the conference and conference acts include representatives from the following Permanent Missions and in some cases, Ministries of Foreign Affairs and Departments of Defense:

**African Union, Algeria, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belgium, Bosnia & Herzegovina, Bulgaria, Canada, Chile, Cyprus, Denmark, Egypt, Eritrea, Ethiopia, Finland, France, Germany, Greece, Holy See, India, Indonesia, Iraq, Ireland, Israel, Japan, Kenya, Kuwait, League of Arab States, Lebanon, Libyan Arab Jamahiriya, Luxembourg, Mexico, Russian Federation, Netherlands, Norway, Peru, Portugal, Saudi Arabia, Serbia & Montenegro, South Africa, Spain, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Turkey, UK, USA, Vietnam, Yemen.**

### FOOTNOTES

- i. For extensive information on these protocols and guidelines, see *The Missing: Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Non-Governmental Experts (19-21 February 2003)*, available as a PDF document at [www.icrc.org/web/eng/siteeng0.nsf/iwplList509/](http://www.icrc.org/web/eng/siteeng0.nsf/iwplList509/). For a discussion of the legal ramifications and political reasoning behind the project, see Sassoli, Marco, and Marie-Louise Tougas “The ICRC and the Missing” also available via the ICRC’s website.
- ii. From the project’s mission statement, published in the brochure “The Missing: End the Silence,” January 2003.
- iii. ICRC The Missing page 7.
- iv. Please see the “Recommendations” section of EAAF’s 2001 Annual Report.
- v. For the full text, see [www.icrc.org](http://www.icrc.org)
- vi. Some argued that it can be deduced from the Article 32 of the First Additional protocol of 1977 of the Geneva Conventions applicable in international armed conflicts, that states as part of the general obligations to provide information on the detainees and internees, thus demonstrating the existence on the family’s right to know. These participants were in favor of introducing a stronger language on the right to know. However, he added, “not all agree that there is a universal right to know”; reminding the others that the Conference was formed by governmental and non governmental representatives and independent experts and that not all States adhere to the 1977 Protocol. EAAF considers that the right to know or right to truth has direct implication on the possibilities of conducting forensic work (see the right to truth on this report).