

MISSING PERSONS AND THEIR FAMILIES

INTERNATIONAL LEGAL FRAMEWORK



In situations of armed conflict, other situations of violence, disasters and in the context of migration, countless families become separated, many people go missing and bodies of the deceased remain unidentified and are never returned home. Those waiting to learn of the whereabouts or fate of a family member live in limbo, afforded neither closure of mourning nor a reason to stop hoping against hope. Such uncertainty has severe psychological and emotional effects. It can also create legal, administrative, social and economic difficulties. The deep wounds inflicted when people go missing continue to undermine relationships among communities and peoples, sometimes for decades afterwards.

International humanitarian law (IHL) and international human rights law (IHRL) contain relevant obligations regarding missing persons and their families. IHL gives rise to three main obligations: 1) the obligation to prevent people from going missing; 2) the obligation to clarify the fate and whereabouts of those who do, and to provide their family members with any information available on their fate and whereabouts; and 3) the obligation to investigate and, when appropriate, prosecute international crimes resulting in persons going missing or being forcibly disappeared. The primary responsibility for addressing the plight of missing persons and their families lies with state authorities and, when applicable, parties to armed conflict. States need to adopt domestic measures to fulfil their obligations under international law and to respond to the needs of the families of missing persons by, for example, facilitating access to pensions and delivering certificates of absence.

Pursuant to the mandate conferred on it by the international community, the International Committee of the Red Cross (ICRC), in particular through its Central Tracing Agency (CTA), undertakes a wide range of activities and coordinates global efforts by the International Red Cross and Red Crescent Movement to protect and restore family links, search for and identify missing people, protect the dignity of the dead and address the needs of families of missing people.

WHO IS A MISSING PERSON?

The notion of “missing persons”, although not defined in international law, is found in different IHL rules,¹ broadly referring to persons reported missing for reasons related to an armed conflict, which includes those forcibly disappeared. The only existing treaty definition is that of “enforced disappearance” under IHRL. [The International Convention for the Protection of all Persons from Enforced Disappearance](#) (ICPPED) uses the term “disappeared person”, which covers persons that have disappeared following “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law” (ICPPED, Art. 2). Disappearances committed by non-state actors, with or without the authorization, support or acquiescence of the State, are also covered by the ICPPED (Art. 2 and 3).

In its work, the ICRC understands missing persons as individuals of whom their families have no news or who, on the basis of reliable information, have been reported missing, as a result of an armed conflict – international or non-international – other situations of violence or any other situation that might require action by a neutral and independent body.² This definition is broader than that of the ICPPED and includes people who go missing even if no wrongful acts have been committed – for instance, in disasters and in the context of migration. It also encompasses members of state armed forces or non-state armed groups who may have gone missing in action; individuals who are captured, arrested or deprived of their liberty and unaccounted for, or held incommunicado or in a secret location; victims of enforced disappearance; internally displaced persons whose families do not know their fate and whereabouts; or even individuals whose bodies are abandoned, buried in haste or mismanaged, making identification difficult or impossible. A person is no longer considered missing when their family has received sufficient, reliable and credible information on their fate and whereabouts.

IHL gives rise to three obligations regarding missing persons and their families: prevent people from going missing; clarify the fate and whereabouts of those who do and to inform families; and investigate and, when appropriate, prosecute war crimes resulting in persons going missing or being forcibly disappeared.

INTERNATIONAL HUMANITARIAN LAW

In situations of armed conflict, IHL gives rise to three obligations regarding missing persons and their families: the obligation to prevent people from going missing; the obligation to clarify the fate and whereabouts of those who do and to inform families; and the obligation to investigate and, when appropriate, prosecute war crimes resulting in persons going missing or being forcibly disappeared.

The obligation to prevent people from going missing

In armed conflicts, both international and non-international, IHL comprises numerous rules relevant to preventing people from going missing, particularly in the event of separation from their relatives, deprivation of liberty or death. It includes rules that ultimately aim to account for people and help prevent them from going missing. The rules concerning the treatment of civilians and persons *hors de combat* are also relevant, as their violation is often at the root of persons going missing.

¹ See Protocol I additional to the Geneva Conventions (AP I), Art. 33; ICRC Study on Customary International Humanitarian Law (CIHL Study), 2005, Vol. 1, Rule 117.

² For more information, see “[Q&A: The ICRC’s engagement on the missing and their families](#)”, *International Review of the Red Cross (IRRC)*, No. 905, August 2017, pp. 535–545.

To protect people from going missing, parties to the conflict must take different measures, including:

- ensuring, insofar as possible, respect for family life through the maintenance of family unity, the facilitation of contact between family members and the provision of information on the whereabouts of family members (the Fourth Geneva Convention (GC IV), Arts 25, 26 and 82; Protocol II additional to the Geneva Conventions (AP II), Arts 4(3)(b) and 5(2)(a); CIHL Study, Rule 105)
- ensuring the delivery of news and mail between persons deprived of their liberty for reasons related to the armed conflict and their families, subject to reasonable conditions relating to frequency and the need for censorship by the authorities (the Third Geneva Convention (GC III), Art. 71; GC IV, Arts 107, 112 and 125; AP II, Art. 5(2)(b); CIHL Study, Rules 105, 125 and 126)
- ensuring that all those who are not or are no longer taking part in the hostilities are treated humanely, (Article 3(1) common to the Geneva Conventions; GC III, Arts 13, 17 and 130; GC IV, Arts 16, 27, 31, 32, 51, 55, 56, 76, 83, 85, 88, 119, 127 and 128; Protocol I additional to the Geneva Conventions (API), Art. 45; AP II, Arts 4 and 7; CIHL Study, Rules 87, 89–95, 98)
- ensuring that the wounded, sick, shipwrecked and dead are searched for and collected, and that remains are appropriately managed (the First Geneva Convention (GC I), Arts 15 and 17; the Second Geneva Convention (GC II), Arts 18 and 20; GC III, Art. 120; GC IV, Art. 130; AP I, Arts 33 and 34; AP II, Art. 8; CIHL Study, Rules 109, 112–116)
- recording all available information relating to the wounded, sick, shipwrecked and dead, and the personal details of persons deprived of their liberty (GC I, Art. 16; GC II, Art. 19; GC III, Arts 120–123; GC IV, Arts 129–131, 136–138 and 140; AP I, Art. 33(2); CIHL Study, Rules 116 and 123).

In addition, the following general, practical measures should be taken to reduce the likelihood of people going missing:

- establishing strict lines of command within armed forces and security forces to ensure effective supervision
- adopting simple procedures to ensure that everyone can easily obtain identity documents
- putting in place appropriate information management systems to ensure that all people at risk of disappearing are being properly registered
- adopting administrative rules and regulations in keeping with internationally recognized norms regarding arrest, detention, imprisonment and captivity
- adopting relevant domestic measures to strengthen the medico-legal system, in view of its role in the management of the dead, and the search for and identification of missing and deceased persons
- adopting regulations that properly incorporate management of mass fatalities in state emergency preparedness and response plans
- establishing appropriate information management systems that ensure all deaths and burial places are registered, remains are traceable and corresponding death certificates are issued.

When it comes to international armed conflicts, IHL contains a detailed and dense set of specific rules for states to enable identification of protected persons and provision of information to their families. Key among these are the rules pertaining to obligations to: account for protected persons in state hands, including the dead; search for missing persons; and allow the ICRC and its CTA to carry out the activities prescribed by its mandate. These obligations include:

- establishing a national information bureau (NIB) upon the outbreak of a conflict and in all cases of occupation. A NIB is responsible for collecting and centralizing information regarding protected persons who have fallen into the hands of the state and sending it to the CTA, which, in its role as a neutral intermediary, then passes it on to the adverse party or the power concerned (GC III, Arts 122–124; GC IV, Arts 136–139)³
- ensuring capture cards and internment cards are made available to prisoners of war and internees, and that they are sent to their families and to the CTA, so these are informed of their capture or internment, and of their state of health (GC III, Art. 70; GC IV, Art. 106)
- providing members of armed forces with proper means of identification, including identity cards and discs (GC I, Art. 16(f); GC II, Arts 19(f), 42 and Annex; GC III, Art. 17 and Annex IV (A))

3 See ICRC, [Overview of the Legal Framework Governing National Information Bureaux](#), April 2022.

- setting up a graves registration service to ensure respect for, maintenance and marking of graves, as well as to allow subsequent exhumation, ensure identification of the bodies and, if necessary, help transport the remains to the home country (GC I, Art. 17; GC II, Art. 20; GC III, Art. 120; GC IV, Art. 130).

Although there are no equivalent obligations in situations of non-international armed conflict, parties to such a conflict may consider applying similar rules in such contexts. For example, some NIB functions could be considered for sending information to the CTA on detainees and other people, including deceased ones, for forwarding to the other party as a way of fulfilling obligations relating to the separated, missing and dead in non-international armed conflicts.

The right of families to know the fate and whereabouts of missing persons and corresponding obligations of parties to the conflict

In international and non-international armed conflicts, IHL requires that parties take all feasible measures to account for persons reported missing as a result of armed conflict and to provide their family members with any information the parties have on their fate (CIHL Study, Rule 117; AP I, Arts 32–33).

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It also requires that parties to the conflict take all possible measures, whenever circumstances permit, to search for, collect and evacuate the dead without adverse distinction (GC I, Art. 15; GC II, Art. 18; GC IV, Art. 16; AP I, Arts 32–34; AP II, Art. 8; CIHL Study, Rule 112). Finally, IHL obliges parties to an armed conflict to record all available information that may assist in the identification of the dead prior to disposal of their remains and to mark the locations of the graves, with a view to identification (GC I, Arts 16 and 17; GC II, Arts 19 and 20; GC III, Arts 120–123; GC IV, Arts 129–131 and 136–140; AP I, Arts 33 and 34; CIHL Study, Rule 116). Additionally, activities such as searching for all burial sites and exhuming remains are essential to clarifying the fate and whereabouts of missing persons.⁴

In international armed conflicts, the right of families to know the fate and whereabouts of their missing relatives is enshrined in Geneva Conventions and their Additional Protocol I, which establishes a general principle by which states parties, parties to the conflict and humanitarian organizations “shall be prompted mainly by the right of families to know the fate of their relatives” (AP I, Art. 32). Moreover, under customary IHL, each party to an international or non-international armed conflict “must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate” (CIHL Study, Rule 117). As noted in the explanation to Rule 117 in the ICRC’s CIHL Study, “[p]ractice indicates that this rule is motivated by the right of families to know the fate of their missing relatives”. This right should be explicitly recognized for individual family members.

The obligation to investigate and prosecute war crimes resulting in persons going missing or being forcibly disappeared

A person going missing or being forcibly disappeared may be the consequence of the commission of one or several war crimes, such as torture, inhuman treatment, wilfully causing great suffering or serious injury to body or health and taking of hostages. Enforced disappearances as such are

⁴ For more information on the protection of the dead, see the ICRC legal factsheet [Humanity after Life: Respecting and Protecting the Dead](#), 2020.

not specifically listed as grave breaches or other serious violations of IHL. However, when an act of enforced disappearance amounts to one of the grave breaches listed in the Geneva Conventions and their First Additional Protocol, it must be investigated and, when appropriate, the perpetrators prosecuted, as required by the grave breaches regime.

In the context of international armed conflicts, the Geneva Conventions and their Additional Protocol I contain lists of grave breaches of those instruments (GC I, Art. 50; GC II, Art. 51; GC III, Art. 130; GC IV, Art. 147; AP I, Art. 85). A state party to the Geneva Conventions or Additional Protocol I has the obligation to “enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches” specified in those instruments. All states parties must also “search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before [their] own courts. [They] may also, if [they] prefer, and in accordance with the provisions of [their] own legislation, hand such persons over for trial to another [State Party] concerned ...” (GC I, Art. 49; GC II, Art. 50; GC III, Art. 129; GC IV, Art. 146; AP I, Art. 85(1)).

According to CIHL Study Rule 98, enforced disappearance is prohibited during international and non-international armed conflicts. In addition, under customary IHL, serious violations of IHL, whether committed in international or non-international armed conflicts, constitute war crimes (see CIHL Study Rule 156). Furthermore, under CIHL Study Rule 157, states have the right “to vest universal jurisdiction in their national courts over war crimes”.⁵

In situations of non-international armed conflict, Article 3 common to the Geneva Conventions contains no specific prohibition of enforced disappearance, but it does categorically state that persons not or no longer taking an active part in hostilities shall be treated humanely in all circumstances and without any adverse distinctions. Common Article 3 also specifically prohibits violence to life and person, including cruel treatment and torture, the taking of hostages, outrages upon personal dignity and, in particular, humiliating and degrading treatment. Depending on the circumstances, enforced disappearance will fall under one or more of those prohibitions.

INTERNATIONAL HUMAN RIGHTS LAW

IHRL contains rules and standards applicable to a broad range of situations – including armed conflict, other situations of violence or migration – regarding preventing people from going missing, clarifying the fate and whereabouts of those who do, investigating and, when appropriate, prosecuting international crimes resulting in persons going missing or being forcibly disappeared. The ICPPED is particularly important, as it is the only global treaty to include specific obligations for states parties to prevent and protect against enforced disappearance.

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Other than on the matter of enforced disappearance, human rights treaties do not contain specific provisions on missing persons and their families. However, several provisions contained in these treaties have been interpreted by United Nations (UN) treaty bodies and regional courts as giving rise to obligations relevant to missing persons, including in terms of clarifying their fate and whereabouts, and requiring states to comply with certain obligations relating to the rights of the relatives of missing persons and to the dead. Under IHRL, states can be held responsible for: failing to uphold the right to life and the right to human dignity; prohibiting torture, cruel, inhuman or degrading treatment or punishment, and enforced disappearance; ensuring the right to private and family life;

⁵ For more information, see ICRC, [Penal Repression: Punishing War Crimes](#), legal factsheet, March 2014.

and ensuring the right to an effective remedy. The relevant provisions are contained in various international instruments – such as the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – and in various regional treaties – such as the 1950 European Convention on Human Rights, the 1969 American Convention on Human Rights, the 1996 Inter-American Convention on the Forced Disappearance of Persons and the 1986 African Charter on Human and Peoples' Rights.

The obligation to prevent people from going missing

Under IHRL, states also have several obligations that are important for preventing people from going missing. These include, *inter alia*, protecting persons against *refoulement*, prohibiting arbitrary deprivation of liberty, protecting the right to life and protecting persons from enforced disappearance. As mentioned above, other obligations include the prohibition of torture or other forms of cruel, inhuman or degrading treatment or punishment, and ensuring humane conditions of detention.

With regard to enforced disappearances, the ICPPED requires states parties to ensure, among other measures, that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts (ICPPED, Art. 12); that no one will be held in secret detention; and that any person deprived of liberty shall be authorized to communicate with their family (ICPPED, Art. 17). Other regional treaties, such as the Inter-American Convention on Forced Disappearances of Persons, require that states parties take measures to ensure, for example, that those deprived of their liberty are held in official recognized places of detention and that official registries of detainees are established and maintained (Article XI).

In general, the issue of disappearances and states' obligations in this regard has been broadly dealt with and developed in the jurisprudence of regional bodies, such as the Inter-American Court of Human Rights and the European Court of Human Rights.

Obligations related to the search

Under IHRL, there are obligations relevant to the search for missing persons and the related rights and needs of their families.

In relation to alleged or suspected enforced disappearances, the ICPPED provides that states parties shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains (ICPPED, Art. 24(3)). It also provides that states parties shall afford one another the greatest measure of mutual assistance with a view to exhuming, identifying and returning the remains of the dead (ICPPED, Art. 15). It provides for the right of the victims to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation, and the fate of the disappeared person, and requires that states parties take appropriate measures in this regard (ICPPED, Art. 24(2)).

The UN Committee on Enforced Disappearances has adopted guiding principles for the search for disappeared persons, which identify mechanisms, procedures and methods through which states should carry out their obligation to search for disappeared persons under the ICPPED.⁶ For instance, in the context of migration, the guiding principles acknowledge the particular vulnerability of migrants and urge states to establish cooperation agreements and competent authorities “to allow for effective coordination in the search for disappeared persons at each stage of migration”.

Beyond this, UN treaty bodies and regional courts have interpreted human rights provisions as giving rise to state obligations relevant to the search for missing persons more generally and the rights and needs of their families. Notably, the right to life imposes a procedural duty on states to conduct an effective investigation of unlawful or suspicious deaths within their jurisdiction. Based on the right to an effective remedy and the obligation of public authorities to carry out an effective investigation

⁶ See UN Committee on Enforced Disappearances, [Guiding Principles for the Search for Disappeared Persons](#) (CED/C/7), 8 May 2019.

into the circumstances surrounding a disappearance or other gross violations of human rights, human rights bodies and regional courts have also recognized a right to the truth.⁷ When respected, these obligations can contribute to the goal of clarifying the fate and whereabouts of missing persons.

Obligation to investigate and prosecute international crimes resulting in persons going missing or being forcibly disappeared

The ICPPED specifically defines the crime of enforced disappearance (ICPPED, Art. 2) and establishes that the “widespread or systematic practice of enforced disappearance constitutes a crime against humanity” (ICPPED, Art. 5). It states the obligation to take appropriate measures to investigate acts of enforced disappearance and to bring those responsible to justice (ICPPED, Art. 3). The Convention also defines the basis of the jurisdiction to be exercised by states over the crime of enforced disappearance (ICPPED, Art. 9). Specifically, it requires states to take the necessary measures to exercise universal jurisdiction over the offence of enforced disappearance when alleged offenders are present in their territory and they do not extradite them.

Finally, under the Statute of the International Criminal Court, enforced disappearance, “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”, is considered a crime against humanity (Art. 7(1)(i)). By virtue of the principle of complementarity, states parties have the primary responsibility to prosecute this crime and therefore need to have adequate legislation in place to enable them to do so.

International supervision mechanisms

The ICPPED led to the creation of the Committee on Enforced Disappearances – a body of experts whose mandate is to monitor the implementation of the Convention by states parties (ICPPED, Art. 26). The Committee receives and considers complaints from individuals, as well as inter-state complaints, regarding alleged violations of the Convention (ICPPED, Arts 31 and 32).

At the UN level, a Working Group on Enforced or Involuntary Disappearances was established in 1980. Although not specifically related to the ICPPED, the group’s work is complementary to that of the Committee and focuses on assisting families in determining the fate and whereabouts of their missing relatives.

NATIONAL IMPLEMENTATION

To ensure that the issue of missing persons and their families is addressed effectively, the rights and obligations derived from international law need to be implemented at the national level. This can be ensured through the adoption of proper domestic laws and policies.⁸ The right of the families to know the fate and whereabouts of their relatives should be at the centre of legal and policy measures adopted in this respect.⁹ The different measures of national implementation should be both preventive – for instance, the establishment of a NIB, proper identification of military personnel, appropriate training of armed forces and forensic units – and *ex post facto*, ensuring that all feasible measures are being taken to ascertain the fate and whereabouts of missing persons. The establishment of relevant and well-coordinated

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7 See, e.g. UN General Assembly, [Right to the Truth: Report of the Office of the High Commissioner for Human Rights](#) (A/HRC/5/7), 7 June 2007; United Nations Economic and Social Council, [Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher. Addendum: Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity](#) (E/CN.4/2005/102/Add.1), 8 February 2005. See also, e.g. Inter-American Court of Human Rights, *Bámaca-Velásquez v. Guatemala*, Judgment of 25 November 2000 (Merits), para. 201; *Barrios Altos v. Peru*, Judgment of 14 March 2001 (Merits), para. 48; European Court of Human Rights, *Cyprus v. Turkey*, Judgment, 10 May 2001, para. 136.

8 See ICRC, [Guiding Principles/Model Law on the Missing](#), legal factsheet, 2009 and Inter-Parliamentary Union/ICRC, [Missing Persons: A Handbook for Parliamentarians](#), No. 17, 2009.

9 See AP I, Art. 32 and ICPPED, Art. 24.

structures, procedures or mechanisms for missing persons and their families may be an appropriate way of ensuring that relevant rights and obligations are being upheld.¹⁰ National authorities should ensure that families of missing persons are involved in the different stages of these processes. The needs of the families of missing persons, as well as protection of personal data and dignified treatment of remains, are also important aspects of these processes.¹¹

The right of the families to know the fate and whereabouts of their relatives should be at the centre of legal and policy measures adopted in this respect.

Needs of families of missing persons

Families of missing persons can have multifaceted needs, including legal, administrative, economic, psychological and psychosocial needs, among others.¹² States should therefore work towards the adoption of the necessary domestic legal and policy frameworks to provide proper protection and guarantees for the rights of the person being sought and those of their relatives. In particular, providing a legal status to both the missing person and their families is key to ensure the continuity of their legal personality and to protect their rights and those of their relatives (e.g. civil, family, property and social rights).

Processing of personal data concerning missing persons

The protection of personal data of the missing person or their family is of paramount importance, given the sensitivity of such data and the negative consequences it can have for the people concerned if they are misused. In recent years, numerous national, regional and international instruments relating to privacy and data protection have been adopted that contain principles for ensuring that personal information is properly processed and protected, and that rights of data subjects (those whose personal data are processed) are respected, including in crisis situations.¹³

Professional and dignified treatment of the dead

IHL and IHRL contain several obligations related to the protection and treatment of the dead. The respect of such rules and their effective implementation are key to prevent people from becoming missing, reduce the number of people who are unaccounted for, and ensure respect and protection of the dead and their relatives.¹⁴

¹⁰ See ICRC, *Guidance Notes of National Mechanisms for Missing Persons: A Toolbox*, June 2022.

¹¹ *Ibid.*

¹² ICRC, *Accompanying the Families of Missing Persons: A Practical Handbook*, 11 June 2020.

¹³ See, e.g. UN General Assembly, Res. 45/95, “[Guidelines for the Regulation of Computerized Personal Data Files](#)”, 14 December 1990 and [Modernised Convention for the Protection of Individuals with Regard to the Processing of Personal Data](#) (2018), Arts 4–13; ICPPED, Arts 18–20. See also OECD “[Guidelines on the Protection of Privacy and Transborder Flows of Personal Data](#)” (1980, as amended in 2013), Annex, paras 7–14; Economic Community of West African States [Supplementary Act on Personal Data Protection](#) (2010), chapters V and VI; African Union [Convention on Cyber Security and Personal Data Protection](#) (2014), sections III and IV; [Asia-Pacific Economic Cooperation Privacy Framework](#) (2015), Part III; Organization of American States [Principles on Privacy and Personal Data Protection](#) (2015); and EU [General Data Protection Regulation](#) (2016), (Arts 5–11 (Principles); Arts 12–23 (Rights of the data subject); and [Recital 112](#) (Data transfers due to important reasons of public interest)). For more on legal bases for personal data processing, see C. Kuner and M. Marelli (eds), *Handbook on Data Protection and Humanitarian Action*, 2nd ed., ICRC and Brussels Privacy Hub, Geneva, 2020.

¹⁴ For more information on the protection of the dead, see ICRC, *Humanity after Life: Respecting and Protecting the Dead*, legal factsheet, 2020. See also ICRC, *Guiding Principles for Dignified Management of the Dead in Humanitarian Emergencies and to Prevent them Becoming Missing Persons*, 2021.

THE ICRC'S ROLE

In all situations

The ICRC, in particular through its CTA, seeks to contribute to preventing people from going missing; restoring and maintaining contact between individuals and their families; searching for missing persons; protecting the dignity of the dead; ensuring that the needs of families are provided for; and supporting authorities and other actors in these endeavours.¹⁵ To this end, it provides services all over the world directly to people affected by armed conflict, other situations of violence, disasters and other emergencies, including in the context of migration.¹⁶ It also supports the coordination of National Red Cross and Red Crescent Societies within the Family Links Network.¹⁷ It acts in an advisory capacity and develops actions to support, advise and build the capacities of states, practitioners and other organizations through the Red Cross/Red Crescent Missing Persons Centre.¹⁸

This engagement is part of the ICRC's mandate and the role of its CTA, a permanent structure entrusted with a specific mandate under the Geneva Conventions and Additional Protocol I to help parties to an international armed conflict prevent family separation and people from going missing, and to ascertain the fate and whereabouts of missing persons by collecting and sending information as a neutral intermediary (GC III, Art. 123; GC IV, Art. 140; AP I, Art. 33). The mandate of the CTA is also based on the International Red Cross and Red Crescent Movement statutes and various resolutions adopted during the International Conferences of the Red Cross and Red Crescent Movement, which have extended the Agency's activities to ensure the protection afforded to the separated, missing and dead is similarly afforded to victims of all armed conflicts, other situations violence, disasters and other emergencies, including in the context of migration.¹⁹

The ICRC, through the work of its Advisory Service on International Humanitarian Law, provides legal and technical support to states in enacting legislation to implement their international obligations towards the missing and their families. The Advisory Service has developed guiding principles/a model law to assist state authorities in the adoption of legislation to address, prevent and resolve situations of missing persons. It also aims to help states in protecting the rights of missing persons and their families.²⁰ Through its database on national implementation of IHL, the Advisory Service collects, compiles and facilitates the exchange of national laws and case law dealing with the protection of missing persons and their families.²¹

States have the primary responsibility to repress international crimes, including enforced disappearance, and to bring justice to victims. The ICRC supports actions aimed at holding accountable those responsible for international crimes by, among other things, recalling states' obligations to investigate and prosecute serious violations of IHL and supporting their efforts to fulfil these obligations. However, in line with its confidential approach, which is derived directly from the principles of neutrality and independence, the ICRC does not participate, and seeks not to be seen as participating, in judicial proceedings. Confidentiality is a tool that enables the ICRC to build trust, secure access and ensure the security of its staff and the people it seeks to help.²²

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15 For more information, see ICRC, “[Q&A: The ICRC's engagement on the missing and their families](#)”, *IRRC*, No. 905, August 2017, pp. 535–545.

16 For more information, see ICRC, [Guidelines on Coordination and Information-Exchange Mechanisms for the Search for Missing Migrants](#), [Guiding Principles on Interaction with Families of Missing Migrants](#) and [Core Dataset for the Search for Missing Migrants](#).

17 For more information, see the [Restoring family links](#) page on the ICRC website.

18 See the [Missing Persons Global Response](#) website.

19 See ICRC, “[Preventing separation, searching for the missing and reuniting families since 1870](#)”, and “[Resolutions of the 33rd International Conference of the Red Cross and Red Crescent](#)”, *IRRC*, No. 911, August 2019, pp. 837–868.

20 See ICRC, [Guiding Principles/Model Law on the Missing](#), legal factsheet, 2009.

21 Available at <https://ihl-databases.icrc.org/ihl-nat>.

22 See X. Londoño and H. Obregón Gieseken, “[Sustaining the momentum: Working to prevent and address enforced disappearances](#)”, ICRC blog, 26 August 2021.

The ICRC visits persons deprived of their liberty around the world and in different contexts. The aims of these visits include preventing people from going missing and restoring contact with their families.²³

In armed conflict

In situations of international armed conflict, the ICRC must be granted access to all persons deprived of their liberty for reasons related to the conflict (GC III, Art. 126; GC IV, Art. 143; AP I, Art. 81). The ICRC's regular detention visits have contributed to preventing people from going missing and being victims of enforced disappearances. Through the work of the CTA, the ICRC also takes charge of collecting, centralizing and passing on all available information on the fate and whereabouts of prisoners of war, civilians deprived of their liberty and other protected persons, (GC I, Art. 16; GC II, Art 19; GC III, Art. 123; GC IV, Art. 140; AP I, Art. 78). Once the information has reached the CTA, it is centralized for sending to the country or power concerned and to the families as quickly as possible. The CTA will not send information to the adverse party if doing so could be detrimental to the person concerned or to their families.

In addition, the ICRC can act as a neutral intermediary in multilateral coordination mechanisms dealing with missing persons in situations of armed conflict.




In situations of non-international armed conflict, the ICRC may offer its services to the parties to the conflict with a view to visiting all persons deprived of their liberty for reasons related to the conflict, in order to verify the conditions of their detention and to restore contact between those persons and their families (CIHL Study, Rule 124; Article 3 common to the Geneva Conventions).

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²³ With regard to ICRC access to persons deprived of their liberty in international armed conflicts, see GC III, Art. 126; GC IV, Art. 143; AP I, Art. 81; regarding the collection of information, see GC III, Art. 123; GC IV, Art. 140; AP I, Art. 78. See also, including for non-international armed conflicts, CIHL Study, Rule 124; Article 3 common to the Geneva Conventions; and the Statutes of the International Red Cross and Red Crescent Movement.

MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

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