



## General Assembly

Distr.  
LIMITED

A/HRC/7/L.33/Rev.1  
27 March 2008

Original: ENGLISH

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### HUMAN RIGHTS COUNCIL

Seventh session

Agenda item 3

#### **PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Argentina\*, Azerbaijan, Bahrain\*, Bolivia, Kazakhstan, Mexico, Saudi Arabia,  
Serbia\*, Ukraine, Uzbekistan: revised draft resolution**

#### **7/... Missing persons**

*The Human Rights Council,*

*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 of human rights, in particular the Universal Declaration of*

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\* Non-member State of the Human Rights Council.

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

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

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>4</sup> the Convention on the Elimination of All Forms of Discrimination against Women,<sup>5</sup> the Convention on the Rights of the Child<sup>6</sup> and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,<sup>7</sup>

*Recalling* all previous resolutions on missing persons adopted by the General Assembly, as well as the resolutions adopted by the Commission on Human Rights,

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

*Noting with deep concern* that armed conflicts are continuing in various parts of the world, often resulting in serious violations of international humanitarian law and human rights law,

*Convinced* that States hold the primary responsibility for countering the phenomenon of missing persons and determining the fate of missing persons and that they must recognize their accountability for implementing the relevant mechanisms, policies and laws,

*Bearing in mind* the effective search for and identification of missing persons through traditional forensic methods, and recognizing that great technological progress has been achieved in the field of DNA forensic sciences, which could significantly assist efforts to identify missing persons,

*Noting* that the issue of persons reported missing in connection with international armed conflicts, in particular those who are victims of serious violations of international humanitarian

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<sup>3</sup> General Assembly resolution 217 A (III).

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

<sup>5</sup> United Nations, *Treaty Series*, vol. 1249, No. 20378.

<sup>6</sup> *Ibid.*, vol. 1577, No. 27531.

<sup>7</sup> A/CONF.157/24 (Part I), chap. III.

law and human rights law, continues to have a negative impact on efforts to put an end to those conflicts and causes suffering to the families of missing persons, and stressing in this regard the need to address the issue from a humanitarian perspective, among others,

*Welcoming* the conclusions of the International Conference of Governmental and Non-Governmental Experts convened by the International Committee of the Red Cross in Geneva from 19 to 21 February 2003 on “The missing: action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families” and its recommendations to address the problems of missing persons and their families,

*Recalling* the Agenda for Humanitarian Action, in particular its general objective 1, to “respect and restore the dignity of persons missing as a result of armed conflicts or other situations of armed violence and of their families”, adopted at the Twenty-eighth International Conference of the Red Cross and Red Crescent, held in Geneva from 2 to 6 December 2003, and resolution 3 on the reaffirmation and implementation of international humanitarian law entitled “Preserving human life and dignity in armed conflict”, adopted at the Thirtieth International Conference of the Red Cross and Red Crescent, held in Geneva from 26 to 30 November 2007,

*Taking note* of the resolution on missing persons adopted on 18 October 2006 by the Inter-Parliamentary Union at its 115th Assembly,

*Welcoming* the ongoing regional efforts to address the question of missing persons,

1. *Urges* States to strictly observe and respect and to ensure respect for the rules of international humanitarian law, as set out in the Geneva Conventions of 12 August 1949<sup>1</sup> and, where applicable, in the Additional Protocols thereto of 1977;<sup>2</sup>
2. *Calls upon* States that are parties to an armed conflict to take all appropriate measures to prevent persons from going missing in connection with armed conflict and account for persons reported missing as a result of such a situation;
3. *Also calls upon* States, in the implementation of their obligations under relevant international humanitarian law and international human rights instruments, to adopt a comprehensive national policy and the necessary legal, regulatory and institutional measures in

their domestic laws and practices in order to prevent the disappearance of persons as a consequence of armed conflict, to elucidate the fate of missing persons, to protect the rights of missing persons and to assist their families;

4. *Reaffirms* the right of families to know the fate of their relatives reported missing in connection with armed conflicts;

5. *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 the persons who have been reported missing by an adverse party;

6. *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 and, to the greatest possible extent, to provide their family members, through appropriate channels, with all relevant information they have on their fate;

7. *Recognizes*, in this regard, the need for the collection, protection and management of credible and reliable data on missing persons according to international and national legal norms and standards, and urges States to cooperate with each other and with other concerned actors working in this area, inter alia, by providing all relevant and appropriate information related to missing persons;

8. *Requests* States to pay the utmost attention to cases of children and women reported missing in connection with armed conflicts and to take appropriate measures to search for and identify those children and women;

9. *Invites* States that are parties to an armed conflict to cooperate fully with the International Committee of the Red Cross in establishing the fate of missing persons and to adopt a comprehensive approach to this issue, including all practical and coordination mechanisms as may be necessary, based on humanitarian considerations only;

10. *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 conflicts 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;

11. *Calls upon* States, without prejudice to their efforts to determine the fate of persons missing in connection with armed conflicts, to take appropriate steps with regard to the legal situation of the missing persons and that of their family members, in fields such as social welfare, financial matters, family law and property rights;

12. *Decides* to hold a panel discussion on the question of missing persons at its ninth session and to invite experts of the International Committee of the Red Cross, delegates of Governments and non-governmental organizations as well as national human rights institutions and international organizations to participate therein and requests the High Commissioner to prepare a summary of the panel's deliberations;

13. *Also decides* to task the Advisory Committee with preparing a study on the best practices on missing persons and submitting that study to the Council at its tenth session;

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

15. *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;

16. *Also requests* the Secretary-General to submit a comprehensive report on the implementation of the present resolution, including relevant recommendations, to the Council before its tenth session;

17. *Decides* to consider the question at its tenth session.

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