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DOI:10.1017/ilm.2019.58

INTRODUCTORY NOTE TO UNITED NATIONS SECURITY COUNCIL RESOLUTION 2474

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[June 11, 2019]

Introduction

On June 11, 2019, the United Nations (UN) Security Council unanimously adopted Resolution 2474 on missing persons in armed conflict. The resolution marks the first time the Security Council has agreed on a thematic text dedicated to this issue, lending its collective voice to call for more effective implementation of existing obligations towards missing persons—both civilian and military—and their families under international law.

Background, Context, and Significance

In May 2019, the UN Secretary-General's annual report on the protection of civilians in armed conflict described the numbers of persons who remained missing in armed conflict worldwide as "alarming."[1] In the context of the ongoing conflict in Syria, ten thousand cases of missing persons had been opened by the International Committee of the Red Cross (ICRC); the agency had also received thirteen thousand separate reports of disappearance in Nigeria. In comments made to the Security Council prior to the adoption of Resolution 2474, ICRC President Peter Maurer pointed to the more than forty-five thousand new cases of missing persons registered by its Central Tracing Agency in 2018 alone, a figure he described as the "tip of the iceberg" in terms of the true numbers of conflict-related disappearances annually.[2]

The Secretary-General's report called on parties to conflicts to "respect and ensure respect for international humanitarian law as it relates to missing persons." Long-established rules under both international humanitarian law (IHL) and international human rights law aim to prevent people going missing in armed conflicts, and to clarify the fate of those who do so. Relevant rules of IHL regulate the search for, collection, evacuation, identification, and return of human remains.[3] The right of families to know the fate and whereabouts of missing relatives is enshrined as a general principle under Additional Protocol I to the 1949 Geneva Conventions, giving rise to obligations to take active measures to search for those who have disappeared.[4]

Recognizing that the issue represented an increasingly serious global challenge, but historically had been addressed by the Security Council only in context-specific discussions, Council President Kuwait, informed by its own long experience in seeking to account for missing Kuwaiti nationals following the first Gulf War, led the work on developing the draft resolution. The framing of the issue as a shared humanitarian concern building on existing obligations, rather than as primarily a political matter, was critical in securing unanimous adoption by Council members. The resolution consequently recognizes the need for states to identify missing persons and return remains to their families "without adverse distinction."[5]

A critical element in national implementation of the international legal framework is the enactment of national measures and institutions to facilitate the search for and identification of those missing, and to prevent disappearances in the first place. Practical examples include enacting national legislation and national information bureaus, issuing identity disks to armed forces, and registering persons deprived of their liberty. Resolution 2474 aims to reinforce and bolster these efforts, drawing particular attention to cases of missing children.[6] In addition, Member States are called upon to strengthen their cooperation and coordination with each other and with relevant regional and international organizations through networking, exchange of experience, the use of best practices, and technical recommendations.[7]

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https://doi.org/10.1017/ilm.2019.58 Published online by Cambridge University Press

The resolution lends strong support to the efforts of international organizations, specifically the ICRC as the principal organization working on tracing missing persons in relation to armed conflicts. Parties to armed conflicts are called upon to cooperate with the ICRC and its Central Tracing Agency in facilitating access to information on missing persons[8] and more generally to uphold IHL obligations aimed at facilitating the safe and unimpeded access of humanitarian personnel, including those engaged in the search for and identification of missing persons or their remains.[9]

Critically, the resolution also underlines the importance of accountability and an end to impunity for crimes related to the missing in armed conflicts. States are called upon to undertake prompt, impartial, and effective investigations and the prosecution of relevant offences. Addressing the issue of missing persons is also linked to the success and sustainability of peace and reconciliation processes—for example, parties negotiating and implementing peace agreements are called upon to include provisions facilitating the search for missing persons.[10] The importance of establishing a clear link between solving the issue of missing persons and resolving conflicts has already been highlighted in briefings to the Security Council on the conflict in Syria.[11]

Conclusion

The adoption of Resolution 2474 serves to fill a critical gap in the Security Council's agenda for the protection of civilians. It represents a significant step in drawing political attention to the increasing numbers of people who go missing each year as a result of conflicts worldwide, elevating the issue to one of global significance. It brings sharply into focus the plight of families unable to verify the whereabouts of loved ones and the difficulties often experienced in uncovering their fate, emphasizing the humanitarian imperative of seeking to strengthen action in this sphere.

The resolution highlights the extensive obligations already incumbent upon States and parties to armed conflicts under international law, reinforcing the need to enhance both national measures and global cooperation to ensure their implementation. As a thematic text, the resolution may usefully inform the inclusion of wording on missing persons in future context-specific resolutions.

Follow-up to the resolution is required in the form of the Secretary-General's annual report on the protection of civilians in armed conflict, where measures taken by parties to armed conflicts to implement the resolution will be included as a sub-theme.

ENDNOTES

1 Report of the UN Secretary-General on Protection of Civilians in Armed Conflict, May 7, 2019, A/73/385 p. 11.

2 Peter Maurer, Security Council Briefing on the Protection of Civilians in Armed Conflict: Missing Persons in Armed Conflict, *at* https://www.icrc.org/en/document/issue-missing-must-be-first-and-foremost-humanitarian.

3 Ximena Londono and Alexandra Ortiz, *Implementing International Law: An Avenue for Preventing Disappearances, Resolving Cases of Missing Persons and Addressing the Needs of Their Families* INT'L REV. RED CROSS 547, 549 (2017).

4 *Id.*

5 S/RES/2474 (2019), preambular ¶ 18.

6 *Id.* operative ¶ 4.

7 *Id.* operative ¶ 13.

8 *Id.* operative ¶ 10.

9 *Id.* operative ¶ 12.

10 *Id.* operative ¶ 15.

11 Rosemary Dicarlo, *Security Council Briefing on Detainees and Missing Persons in Syria*, *at* https://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/1CB95FEA8ABDEF9FC12584500043FDA5?OpenDocument.

https://doi.org/10.1017/ilm.2019.58 Published online by Cambridge University Press

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UNITED NATIONS SECURITY COUNCIL RESOLUTION 2474*
[June 11, 2019]

United Nations S/RES/2474 (2019)

Security Council

Distr.: General
11 June 2019

Resolution 2474 (2019)

Adopted by the Security Council at its 8543rd meeting, on 11 June 2019

The Security Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, and in this context, the need to promote respect for the rules and principles of international humanitarian law,

Reaffirming the importance of addressing the root causes of armed conflicts to achieve sustainable peace and security, by dialogue, mediation, consultations and political negotiations to bridge differences and to end conflicts,

Recalling international law relevant to the issue of missing persons as a result of armed conflict, consistent with international humanitarian law, in particular the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977, and *further recalling* the obligation of States Parties to the 1949 Geneva Conventions to respect and ensure respect for the Conventions in all circumstances,

Recalling all relevant Security Council resolutions, including resolutions 1265 (1999), 1296 (2000), 1674 (2006), 1738 (2006), 1894 (2009), 2222 (2015) and 2286 (2016) on the protection of civilians in armed conflict, as well as relevant statements of its President related to the protection of civilians in armed conflict,

Recalling all relevant Security Council resolutions, including resolutions 2417 (2018), 2175 (2014) and 1502 (2003) on the protection of humanitarian personnel,

Recalling further General Assembly resolution 73/178 entitled "Missing Persons",

Noting the report of the Secretary-General on the Protection of Civilians in Armed Conflict of 07 May 2019 (S/2019/373), and the relevant conclusions contained therein,

Noting that this year marks the 70th anniversary of the Geneva Conventions of 1949, which together with their Additional Protocols are a key part of the legal framework for the protection of civilians in armed conflict,

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Noting further that this year also marks the 20th anniversary of the progressive consideration by the Security Council of the protection of civilians in armed conflict as a thematic issue; and acknowledging the enduring need for the Security Council and Member States to strengthen further the protection of civilians in armed conflict,

Urging States which have not yet done so to consider becoming parties to Additional Protocols I and II of 1977 to the Geneva Conventions at the earliest possible date,

Reaffirming that parties to armed conflict bear the primary responsibility to take all feasible steps to ensure the protection of civilians and recalls that States bear the primary responsibility to respect and ensure the human rights of all individuals within their territory and subject to their jurisdiction, as provided for by relevant international law,

Stressing the important contribution of measures to prevent persons from going missing as a result of armed conflict, including, inter alia; enacting national legislation, ensuring detainee registration, providing appropriate training for armed forces, producing and providing proper means of identification, including for members of armed forces, the establishment of national information bureaus upon the outbreak of an armed conflict, grave registration services and registers of deaths and ensuring accountability as appropriate in cases of missing persons,

Cognizant of the great scientific and technological progress which has significantly increased the efficacy of the search for and identification of missing persons including through, inter alia; forensic sciences, DNA analysis, satellite maps and imagery, and ground penetrating radar,

Emphasizing the importance of the principles of humanity, neutrality, impartiality and independence in the provision of humanitarian assistance and *reaffirming* also the need for actors engaged in the provision of such assistance in situations of armed conflict to promote and fully respect these principles; and recalls, in this regard, the statement of its President of 9 March 2000 (S/PRST/2000/7),

Reiterating strong support for the efforts of the international organizations, in particular, International Committee of the Red Cross in addressing the issue of missing persons, consistent with the Geneva Conventions of 1949 and their Additional Protocols of 1977, and *appreciating* the work of the national, regional and international organizations and mechanisms in this field,

Expressing its concern about the dramatic increase in persons reported missing as a result of armed conflict, which entails consequences for the missing persons themselves and for their families, especially women and children, and communities in the immediate and long-term, and *reaffirming* in this regard the importance of allowing families to know the fate and whereabouts of their missing relatives, consistent with applicable international humanitarian law, which is of crucial humanitarian importance,

Recognizing that it is critical for States to address the issue holistically, from prevention to tracing the location, identifying missing persons and returning human remains to their families, without adverse distinction, that informed and early action is crucial for addressing cases of missing persons in an effective and credible manner, and that the manner in which these cases are addressed affects relations between parties to armed conflict and efforts to resolve conflicts,

Recognizing the importance of truth, justice and accountability in efforts towards reconciliation and the peaceful settlement of conflicts, and the end of impunity,

Acknowledging that full and timely support for humanitarian components can be critical in ensuring and enhancing the sustainability of any peace agreement and post-conflict peacebuilding and emphasizes the importance of inclusion of humanitarian elements in peace negotiations and agreements, including the issue of prisoners of war, detainees and missing persons and others protected by international humanitarian law,

1. *Reaffirms* its strong condemnation of the deliberate targeting of civilians or other protected persons in situations of armed conflict, and calls upon all parties to armed conflict to put an end to such practices, in accordance with their obligations under international humanitarian law;

2. *Calls upon* parties to armed conflict to take all appropriate measures, to actively search for persons reported missing, to enable the return of their remains, and to account for persons reported missing without adverse distinction

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and to put in place appropriate channels enabling response and communication with families on the search process, and to consider the provision of information on available services in relation to administrative, legal, economic and psychosocial difficulties and needs they may face as a result of having a missing relative, including through an interaction with competent national and international organizations and institutions;

3. *Calls upon* parties to armed conflict to take appropriate measures to prevent persons from going missing as a result of armed conflict, through the facilitation of the reunion of families dispersed as a result of armed conflict, and to allow for the exchange of family news, consistent with their international obligations;

4. *Calls upon* parties to armed conflict to pay the utmost attention to cases of children reported missing as a result of armed conflict, and to take appropriate measures to search for and identify those children;

5. *Calls upon parties* to armed conflict to register and notify the personal details of persons deprived of their liberty, including prisoners of war, as a result of armed conflict, and belonging to the adverse party, and allow them to correspond with their families, consistent with their international obligations;

6. *Further calls upon* States, in cases of missing persons as a result of armed conflict, to take measures, as appropriate, in order to ensure thorough, prompt, impartial and effective investigations and the prosecution of offences linked to missing persons as a result of armed conflict, in accordance with national and international law, with a view to full accountability;

7. *Urges* parties to armed conflict to collect, protect, and manage all relevant data and documents on missing persons as a result of armed conflict while respecting privacy, consistent with applicable national and international law;

8. *Urges* parties to armed conflict to search for and recover the dead as a result of armed conflict, identify them, including by recording all available information and mapping the location of burial sites, to respect the remains of the dead, including by respecting and properly maintaining their graves, and to return them, whenever possible, to their relatives, consistent with applicable obligations under international humanitarian law and human rights law; as it relates to personal data protection, to refrain from deliberate relocation of remains from mass graves, to avoid excavation and recovery efforts by untrained persons that result in the damage or destruction of human remains, and to ensure that, in any exhumation or recovery effort, data possibly leading to the identification of the deceased person is adequately collected and recorded;

9. *Urges* parties to armed conflict to establish national information bureaus or other mechanisms, upon the outbreak of a conflict, to exchange information on detainees and civilians belonging to an adverse party, to transmit such information to that party, with the support of the Central Tracing Agency as a neutral intermediary, where appropriate, and to open enquiries regarding these persons;

10. *Reiterates* its support for the efforts of the ICRC in seeking access to information on persons reported missing and calls on all parties to armed conflict to comply with their commitments in respect to such access and to cooperate with the ICRC and its Central Tracing Agency in addressing the issue of missing persons, consistent with applicable obligations under international humanitarian law;

11. *Stresses* the importance of strengthening the role and capacity of the existing national, regional and international mechanisms that assist in addressing the issue of missing persons as a result of armed conflict, to provide advice and support to Member States, other national, international and regional organizations and mechanisms in this field to provide training, to exchange, as appropriate, on respective registries of missing persons cases, and to share best practices in close cooperation with all relevant organisations;

12. *Urges* all parties to armed conflict to allow safe and unimpeded access of humanitarian personnel, including those engaged in the search for and identification of missing persons or their remains as soon as circumstances permit;

13. *Calls upon* all Member States to engage in networking, exchange of experience, best practices and technical recommendations, and other means of cooperation and coordination with state institutions, and, as appropriate, with national commissions on missing persons, competent regional and international organizations and mechanisms;

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14. *Underscores* that accountability for missing persons as a result of armed conflict can be among the components of the design and implementation of peace negotiations and agreements and peacebuilding processes, including with reference to justice and rule of law mechanisms;

15. *Calls upon* all parties to armed conflict, when negotiating and implementing peace agreements, to include provisions to facilitate the search for missing persons and to take all necessary steps to protect victims and witnesses testifying on those reported missing in order to end impunity;

16. *Underscores* that the steps set out in this resolution can contribute to the process of confidence building between parties to armed conflict, expediting peace negotiations and settlement, transitional justice processes, reconciliation, peacebuilding and sustaining peace;

17. *Encourages* Member States to increase their voluntary financial, technical training and logistical assistance for states, upon their request, in support of exhumation and identification processes relevant to the search for missing persons as a result of armed conflict, in particular to advance forensic scientific and methodological efforts for the recovery, identification and management of bodies or human remains in a way that respects human dignity;

18. *Encourages* the relevant United Nations Secretary-General's special representatives, envoys, coordinators and advisors to take into account, while implementing their respective mandates, the issue of missing persons as a result of armed conflict;

19. *Requests* the Secretary-General to include as a sub-item in the reports on the protection of civilians the issue of missing persons as a result of armed conflict, including measures undertaken by parties to armed conflict in the implementation of the provisions of this resolution, and to brief the Security Council every twelve months on the implementation of the resolution, within the annual briefing on the protection of civilians.

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