

MEMORANDUM OF UNDERSTANDING

Between

The Ministry of Human Rights representing the Medical-Legal Institute and the Martyrs Foundation, coordinated with the Ministry of Martyrs and Anfal Affairs and the Ministry of Health, KRG

And

The International Commission on Missing Persons (ICMP)

Concerning

Implementation of a DNA-led identification project for cases of missing persons

The Parties, recognizing,

1. That families of the missing have a right to know the fate and whereabouts of missing relatives;
2. That uncertainty surrounding the fate of the missing is a continuing source of anguish to the families concerned and an obstacle to rebuild civil society in Iraq;
3. That the Government of Iraq, through a relevant set of ministries and institutions, is engaged in the process of locating, recovering and identifying missing persons and as such has direct responsibility for the administration and management of the recovery and identification of mortal remains of persons unaccounted for as a consequence of human rights violations and other crimes against humanity perpetrated under the regime of Saddam Hussein.
4. That mortal remains of many persons missing have been found in clandestine graves, but due to the circumstances of their death, burial, and time that has passed, an identification process led by DNA and complemented by other forensic methods is most appropriate;
5. That in order for DNA technology to aid in the identification process, DNA profiles from blood samples taken from family members with missing relatives needs to be compared to DNA profiles from mortal remains of the missing;
6. That the long-term objective of this three- year project is to ensure that Iraq has the best possible procedures in place to undertake the difficult task of excavating mass graves and identifying recovered remains and that the inter-ministerial cooperation and coordination that is necessary to effectuate such a system exists.

have agreed as follows:

1. Regarding the selection of recovery sites,

The Ministry of Human Rights (MHR), in consultation with the Ministry of Martyrs and Anfal Affairs (MoMAA), the Medico-Legal Institute, Baghdad and Erbil will select mass graves for this project pursuant to the law and giving due regard to ensuring diversity among the missing to be recovered from these sites.

2. Regarding the excavation of recovery sites,

2.1 The aforementioned institutions and the ICMP will participate in the excavation of each site selected for this project, as well as in the examination of remains recovered, upon receiving from the necessary permissions.

2.2 ICMP staff will participate in the planning and implementation of excavations conducted under this project, and assist in the analysis, forensic examination and sampling of remains recovered, as well as in recording any artifacts and other evidence present at these sites.

2.3 Forensic work will be conducted in line with international standards and scientific best practices as set forth *inter alia* in ICMP Standing Operating Procedures.

3. Regarding ante mortem data and reference sample collection; profiling reference samples

3.1 ICMP will conduct an assessment of the status of ante mortem and reference sample collection in Iraq, and train up to 60 persons from the Martyrs Foundation, MLI Baghdad and Erbil and MoMAA in the collection of ante mortem data and blood reference samples for purposes of this project.

3.2 Teams consisting of members from the Martyrs Foundation, the MLI and MoMAA will undertake the collection of reference samples and ante mortem data in Iraq, on behalf of and pursuant to ICMP standard operating procedures and will invite ICMP representatives to ante mortem data and blood reference sample collection activities to serve as monitors.

3.4 ICMP will donate a sufficient number of reference sample collection kits for purposes of this project. ICMP and the MHR will jointly prepare an appropriate ante mortem collection form that is compatible with ICMP's database systems for use under this project.

3.5 ICMP will make use of its laboratories to extract DNA profiles for up to 9,000 reference samples submitted in accordance with its standard operating procedures as part of this project.

4. Regarding the storage of mortal remains,

Mortal remains recovered under this project will be stored in a manner that is dignified and will permit their efficient examination and eventual identification. They will be kept at a guarded, access-restricted facility, or, if remains must be temporarily buried, they shall be processed, marked and interred in a manner that will permit recovering them reliably.

5. Taking postmortem samples and DNA Profiling

5.1 ICMP will provide an assessment of the state of bone and tooth extraction procedures at the MLI Baghdad and MLI Erbil, and will offer follow-up training activities to laboratory staff as needed.

5.2 ICMP will make use of its laboratories to generate DNA profiles from up to 3,000 bone samples submitted in accordance with ICMP SOP under this project.

6. Regarding a public information campaign

The Parties will jointly plan and implement a public information campaigns for the purposes of this project. ICMP will provide materials it has produced previously for information campaigns of this kind.

7. Regarding the identification process

7.1 ICMP will have access to ante mortem and postmortem comparisons, as well as to related information accessible to the MHR, Martyrs Foundation, MLI and MoMAA. The parties will also provide all documentation related to excavations and examinations conducted under this project in their respective local language. ICMP shall translate these materials into English, enter the information into its Forensic Database Management System (DMS) in English and scan the original documents into the database system for future reference.

- 7.2 For purposes of DNA-led identifications, ICMP will establish and operate Identification Coordination Centers in Erbil and Baghdad to process biological samples and data collected under this project.
- 7.3 ICMP will conduct DNA testing and reporting on all ante mortem and postmortem samples provided to it in accordance with ICMP policies on data processing and protection.
- 7.4 During testing, the ICMP shall train a limited number of Iraqi scientists in its DNA extraction, profiling and matching methodologies.
- 7.5 ICMP shall submit DNA Match Reports to the MLI Erbil and the MLI Baghdad. The MLIs shall then report these findings to the relevant institution or authority designated to collect and store this information in Iraq.
- 7.6 ICMP shall provide the MHR, the Martyrs Foundation, MLI and MoMAA with web-based access to appropriate sections of its database system to allow them to track the processing of blood reference and bone samples.
- 7.7 ICMP agrees to cover the costs of DNA testing as concluded under this Agreement.

8. Liability

- 8.1 Neither party shall be liable to indemnify the other in respect of any claim, debt, damage, or demand brought forth by a third party and arising out of the implementation of this Memorandum of Understanding.
- 8.2 Neither party shall be liable for compensation for the death, disability, or other hazards which may be suffered by the employees and/or volunteers of the other party as a result of their activities during work on the subject matter of this Memorandum of Understanding.
- 8.3 Neither party shall be liable for expenditures nor obligations incurred by the other in excess of contributions as specified in the Memorandum of Understanding.

9. Regarding the Memorandum of Understanding:

- 9.1 This Memorandum of Understanding, in conjunction with the Iraqi legal framework coordinated with the legal framework of Bosnia and Herzegovina and ICMP standard operating procedures in as much as they do not conflict with Iraqi law, shall govern the relations of the signatory parties.

9.2 This Memorandum of Understanding shall not prevent the conclusion of additional agreements in future.

9.3 The Memorandum of Understanding shall expire four years from the date of signature, unless re-examined and confirmed by the Parties on or before that date.

9.4 The Memorandum of Understanding may be terminated for two reasons:

For cause: When either Party breaches the conditions of the Memorandum of Understanding, the other party may terminate the Memorandum of Understanding, in whole or in part, upon written notice;

OR

For convenience: When all Parties agree, in whole or in part, to terminate the Memorandum of Understanding, upon three months' written notice.

9.5 Unless a party is notified otherwise in writing, any notice required or permitted under this Memorandum of Understanding shall be deemed sufficiently given or served if sent by certified mail, return receipt requested, addressed as follows:

If to ICMP to:
Johnathan T. McCaskill
Head of Iraq Programs
Alipasina 45a,
71 000 Sarajevo
Bosnia & Herzegovina

If to the Iraqi Institutions to:

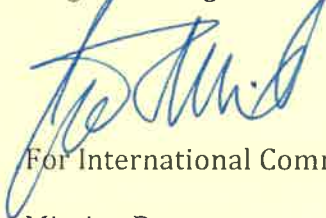
H.E. Mohammad Shia Al- Sudani
Minister for Human Rights
Ministry of Human Rights
Baghdad
Republic of Iraq

9.6 The Memorandum of Understanding shall enter into effect upon the signature of the parties.

9.7 Each institution party to this Memorandum of Understanding shall receive an original copy and an additional original.

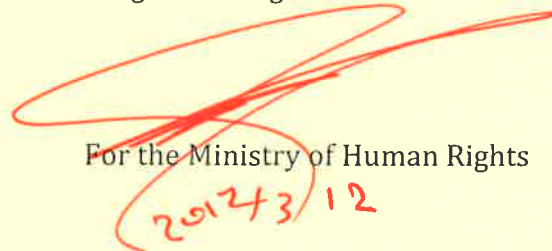
- 9.8 The Parties agree to settle any disputes that arise under this Memorandum of Understanding, through negotiation. If such negotiations do not work, they shall be resolved according to Iraqi law.
- 9.9 Neither this Memorandum of Understanding nor any part there of shall be construed to constitute any waiver, whether expressed or implied, of any privileges and immunities that apply to the Parties, the Parties' offices, accounts, assets, officials, officers, experts and staff.
- 9.10 This Memorandum of Understanding supersedes any prior agreement on the matter between the parties.
- 9.11 All amendments to this Memorandum of Understanding shall be made in writing, duly signed by all parties.
- 9.12 For purposes of this Memorandum of Understanding, the Ministry of Human Rights shall represent the Government of Iraq, including the Ministry of Health and the Martyrs Foundation.
- 9.13 This Memorandum of Understanding is originally drafted in the English language and translated into Arabic and Kurdish languages. English and Arabic copies shall be given equal weight before the Iraqi courts. In case of a conflict between the English text and that of any translation, the English text shall be considered authoritative.

Signed in Baghdad on ...



For International Commission on
Missing Persons

Signed in Baghdad on ...



For the Ministry of Human Rights

2012/3/12