

**CONCEPT NOTE:  
ICMP NOTE TO THE FIVE-YEAR PLAN TO SUPPORT IRAQ BUILD  
A SUSTAINABLE PROCESS FOR ACCOUNTING FOR MISSING PERSONS**

**I. BACKGROUND**

1. States are responsible for accounting for missing and disappeared persons through investigating disappearances regardless of the circumstances and timeframe or their role in hostilities. In addition, states are responsible for securing the rights of families of the missing to the truth justice and reparations.
2. The International Commission on Missing Persons' (ICMP) objectives in Iraq have been to assist the relevant authorities to develop a sustainable process of accounting for missing persons, including:
  - The establishment of a purpose-specific, central mechanism that can coordinate the work of the relevant Iraqi ministries and institutions that are engaged in finding missing persons as defined in Iraqi Law, including but not limited to, the Law on Mass Graves Affairs, Compensation Law No. 20, and the Yazidi Survivors Law;
  - A central record of all missing persons that would be maintained by the central mechanism and contain reports of missing persons from families, as well as data from the relevant institutions engaged in recovery operations, mortuary operations and DNA lab work, information on cause and manner of death, and the return of mortal remains to families. A central record is key to finding missing persons and is an essential repository of factual information and a memorial for the families at the same time;
  - Adoption of a legal framework that supports the missing persons process and secures the rights of families of the missing, including the implementation of legislation in accordance with the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED);
  - Strengthening judicial institutions to ensure adherence to rule of law procedures;
  - Strong and united civil society structures, including the establishment of a coordination body of families of the missing that represents all Iraqi communities;
  - A DNA-led process of human identification that incorporates:
    - A high throughput human identification laboratory;
    - An Iraq-wide data collection that would allow all families of the missing to safely, voluntarily provide data including genetic reference samples, that support the work of the state to find missing persons and that are safeguarded in the central record;
    - An organized and transparent schedule of investigations and excavations;
  - A line item in the Iraqi budget that fully covers the missing persons process as outlined above, as well as compensation for families of the missing that is not based on the circumstances and timeframe of disappearance; and
  - Appropriate expressions of commemoration and memorialization of victims.
3. While some of these measures have been adopted by Iraq, notably Iraq becoming a signatory

state to the ICPPED in 2010, the creation of the Law on Mass Grave Affairs in 2006, as amended in 2015, and the development of procedures that have laid the foundation for a DNA-led process in line with the rule of law, much still needs to be done.

4. In 2021, ICMP hosted a three-day high-level policy conference in The Hague with Iraqi government representatives, entitled “Missing Persons in Iraq: The Way Forward.” Consensus was reached on 12 conclusions (see Annex) forming the basis for a comprehensive strategy on a way forward to account for Iraq’s missing persons. These conclusions include, among others, creating a central mechanism and adopting a national plan, improving data management and data protection, ensuring state funding for the process, strengthening the role and capacity of civil society, upholding the rights of survivors, particularly women and bringing perpetrators to justice.
5. Since the high-level policy conference, six Iraqi government-driven meetings have been held concerning the creation of an Iraqi central mechanism and central record on missing persons. The first two were convened by the Advisory Commission to the Presidency of Iraq’s Council of Ministers (Advisory Commission). Meanwhile, the subsequent four meetings were organized by the Iraqi Permanent International Humanitarian Law Committee (IHL Committee), a committee chaired by the Prime Minister’s Office. ICMP sees positive indications that these Iraqi owned and government-driven process will continue. Nonetheless, challenges related to the scale of the issue, the entities involved, and the evolving political and security situation may play a role in the advancement of such a process.
6. In addition to the mentioned efforts with the Iraqi authorities, ICMP is facilitating and assisting the initiatives led by the families of the missing as the rightsholders of this issue, and the civil society in Iraq, through raising awareness of their rights and coordinating their participation in government-led activities. These efforts work toward shared ownership of the issue of the missing between Iraqi authorities, the families of the missing, and civil society organizations.
7. ICMP proposes this five-year plan to assist Iraq in implementing a sustainable strategy to account for all missing persons and to secure the rights of families of the missing. Centered on the conclusions from the high-level policy conference in The Hague in 2021, it will articulate how ICMP will leverage its years of cooperation with the Iraqi authorities and civil society to engage stakeholders and mobilize financing and other resources towards developing sustainable legislative, administrative and financial processes to account for all missing persons and to secure the rights of all families of the missing in Iraq.

## **II. STRATEGIC OBJECTIVES**

8. Over the next five years, ICMP will work towards advancing progress against three strategic objectives (Figure 1):
  - a) Promote a centrally coordinated approach to accounting for missing persons, through a central mechanism;
  - b) Strengthen the capacity of Civil Society Organizations (CSOs) and build bridges with government authorities; and
  - c) Advance Iraq’s legal framework on missing persons that incorporates international legal standards, including ensuring that the specific rights of women survivors are secured.

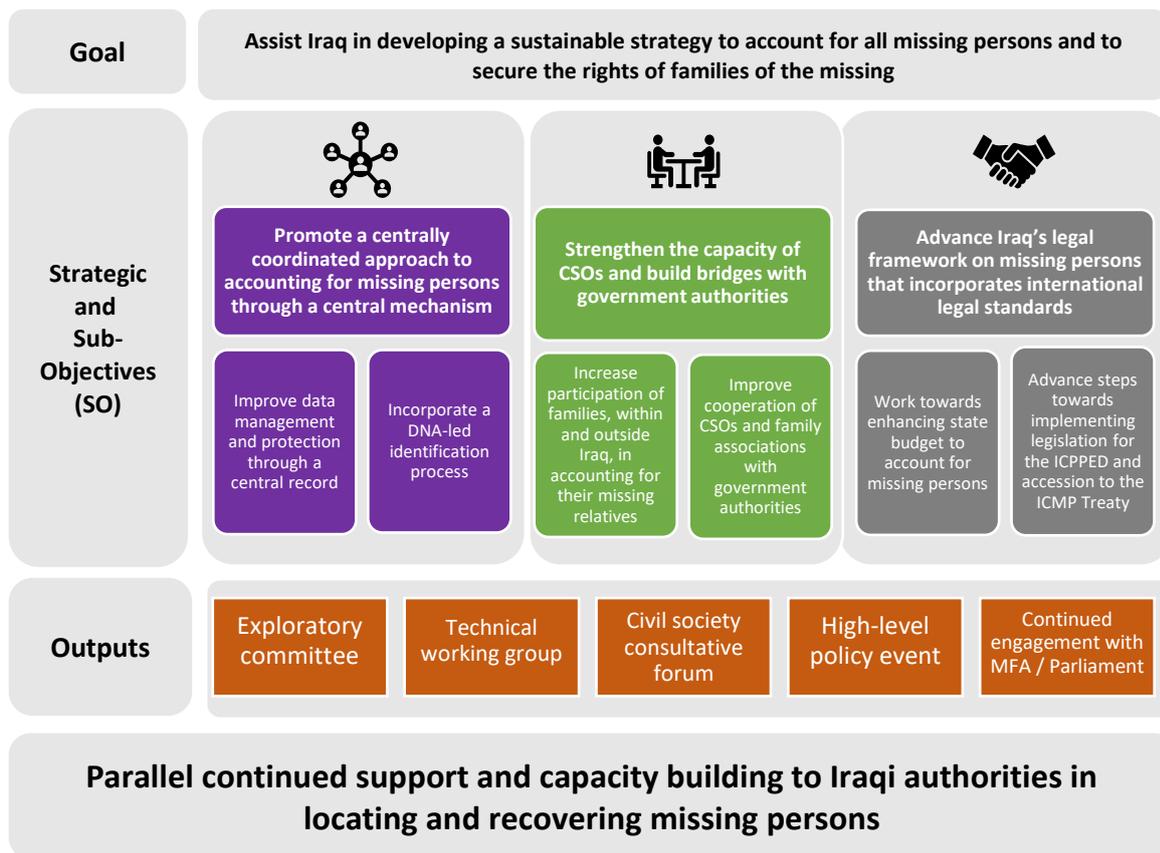


Figure 1:  
ICMP's strategic objectives in Iraq for the next five years

9. A central mechanism, including a central record for improved data management and information sharing, will harmonize procedures currently undertaken by different government entities, such as the Martyrs Foundation, Ministry of Health (MoH), Ministry of Justice (MoJ), Ministry of Defense (MoD), Supreme Judicial Council (SJC), and Ministry of Interior (MoI), among others. A central mechanism will allow CSOs to support families of the missing to know of and access their rights more easily, thereby increasing their participation in the processes involved to account for their relatives. Lastly, advancing the Iraqi legal framework on missing persons in line with relevant international standards and Iraq's accession to the *Agreement on the Status and Functions of the International Commission on Missing Persons (ICMP Treaty)* shall provide a basis for broad and sustainable cooperation on the rights of missing persons, as well as work through other intergovernmental mechanisms on cases of Iraqis missing outside Iraq.

**2.1. Promote a centrally coordinated approach to accounting for missing persons through a central mechanism**

10. The process of accounting for missing persons involves the cooperation of different state actors. In Iraq, the assignment of different tasks relating to the missing persons process to various institutions, accompanied by the lack of central mechanism, has caused considerable institutional and operational gaps. During the ICMP-hosted high-level policy conference, key Iraqi government representatives have recognized these gaps and achieved a broad consensus on striving to create a sustainable missing persons' process through a central mechanism.

11. As a follow-up to the conclusions of the high-level policy conference, six Iraqi government-driven meetings have been held concerning the creation of an Iraqi central mechanism and central

record on missing persons since the start of 2022. The first two were convened by Advisory Commission. These meetings were represented by the Martyrs Foundation's Mass Graves Directorate (MGD), MoH's Medico-Legal Directorate (MLD), the Kurdistan Regional Government's (KRG) Ministry of Martyrs and Anfal Affairs (MoMAA), MoJ, MoD, and the Iraqi High Commission on Human Rights (IHCHR), among others. ICMP and other international organizations, such as the International Committee of the Red Cross (ICRC) and the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) also participated in these meetings.

12. Meanwhile, the subsequent four meetings were organized by the IHL Committee, a committee chaired by the Prime Minister's Office. These meetings, separate from that convened by the Advisory Commission, were organized to discuss the draft proposal law on a central mechanism for missing persons, the draft legal proposal on the right to know the truth for victims of missing, and a central record for missing persons. ICMP co-organized the second IHL Committee meeting through a two-day workshop in Erbil in late August 2022, where more than 20 Federal Iraq and KRG officials in attendance.<sup>1</sup> This was followed by the third and fourth IHL Committee meetings in late September and October, at a total of six meetings since the start of 2022.
13. A central mechanism for this purpose essentially requires the improvement of data management and protection through a central record maintained by a central mechanism. Likewise, a central mechanism can be effective if it can coordinate missing persons identifications through a DNA-based process that operates on the principles of quality management, with which the MLD DNA laboratory in Baghdad is striving towards.
14. To facilitate operationalizing this objective, ICMP's five-year strategy will involve supporting continued discussions involving this core stakeholder group through organizing consultative meetings on the next steps to establish the central mechanism. In addition, ICMP will work towards the inclusion of (i) other government entities, e.g., KRG's MoMAA and the Yazidi Survivors Affairs Directorate of the Ministry of Labor and Social Affairs, in accordance to their roles as specified under relevant legislation, i.e., Law on Mass Grave Affairs, Compensation Law No. 20, and Yazidi Survivors Law, and (ii) CSOs, in particular with regard to the envisioned role of families of the missing within the central mechanism, in these meetings, over the course of the five years.
15. ICMP has seen coordination with ICRC and UNITAD rise in connection to the IHL Committee meetings as well as field activities witnessed in the first half of 2022. While an entirely united approach may not be achieved due to different mandates, ICMP continues to participate in ICMP-ICRC-UNITAD cluster meetings to ensure timely updates are available and to avoid duplication of work.

## **2.2. Strengthening the capacity of CSOs in their work with families of the missing and building bridges with government authorities**

16. Iraqi government representatives have acknowledged at various occasions, including during the ICMP-hosted high-level policy conference the role of civil society plays in the development of institutional strategies, legislative reforms and in building bridges between families and the

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<sup>1</sup> Among the participants were representatives from the Prime Minister's Office, State Council, SJC, MGD, MLD, Directorate for Survivors Affairs/Ministry of Labor and Social Affairs, MoJ, Ministry of Foreign Affairs, MoI, MoD, KRG Human Rights Commission, KRG's MoH, KRG's MoMAA, and KRG Office of the Implementation of International Recommendations.

government. In this regard, strengthening national CSO capacity in increasing families' participation within and outside Iraq in accounting for their missing relatives is crucial to the missing persons' process.

17. To that end, ICMP, as it has done in other countries, will organize consultative forums, CSO dialogue, and regional meetings between organizations, such as family associations. In addition, ICMP will intensify partnerships with CSOs with international reach and influence, such as Nadia's Initiative and Farida Global Organization, with whom ICMP concluded cooperation agreements in 2021, through conducting joint activities. In ICMP's experience, authorities have been shown to improve communication between stakeholders and have had a positive impact on the process to account for missing persons as result of increased dialogue and interaction with CSOs.

### **2.3. Advance Iraq's legal framework on missing persons that incorporates international standards**

18. Iraq's various laws dealing with the issue of missing persons both in Federal Iraq and the Kurdistan Region have led to piecemeal responses in addressing missing persons issues. Strengthening the legal framework in Iraq through harmonizing present legal provisions across different laws and adopting necessary laws where relevant, is an indispensable requirement to achieve a sustainable missing persons' process. A strengthened legal framework can, *inter alia*, incorporate international standards, e.g. the ICPPED, on missing persons processes and secure a sustainable and appropriate budget allocation for the entities in charge, to ensure their capability in meeting their obligations.
19. Likewise, ICMP will continue to work with the members of Iraq's Parliament and strive to ensure that Iraq accedes to the ICMP Treaty. Iraq's accession to the ICMP Treaty would greatly contribute to raising awareness about the missing persons issue and give greater visibility to Iraq's efforts to strengthen the rule of law. This is especially relevant as mechanisms to address missing persons issues exist outside Iraq that require intergovernmental relations, hence, focusing on a national border approach may no longer be sufficient as missing persons and their families continue to be reported/ to be located in Germany, Turkey, the Netherlands, etc., and are likewise entitled to their rights as enshrined in Iraqi law.
20. ICMP intends to facilitate a regional expert dialogue with the Government of Iraq with an incentive to demonstrate how it is tackling efforts to account for missing persons. Under the auspices of the ICMP Director-General, the dialogue will focus on the exchange of best practices to harmonize national legislation and practice in accordance with international obligations and advance regional cooperation to account for missing persons.
21. Meanwhile, to further strengthen Iraq's and ICMP's cooperation in line with the legal requirements, ICMP will continue to engage with Iraq's Parliament and Ministry of Foreign Affairs and seek support from the diplomatic community to conclude an ICMP status agreement. An ICMP status agreement would provide a more stable footing for ICMP's engagement in Iraq and would enable ICMP to assist the Iraqi authorities more effectively in carrying out the challenging task of locating and identifying missing Iraqis.
22. Finally, ICMP will endeavor to host roundtables and policy events with key Iraqi government representatives to track Iraq's progress against the implementation of 12 conclusions gleaned from the 2021 high-level policy conference, of which Iraq's striving to accede to the ICMP Treaty

is a part of.

### **III. CONTINUED SUPPORT AND CAPACITY BUILDING TO LOCATE AND RECOVER MISSING PERSONS**

23. Notwithstanding ICMP's focus on delivering against the three strategic objectives, ICMP will continue supporting the authorities for ongoing tasks, namely the MGD, MLD, MoMAA, including but not limited to:
- Conduct forensic archaeological assessments, and anthropological examinations and human identification work, closing cases with legal effect, including facilitating certification of the missing persons process;
  - Return the remains of the missing to their families for burial and commemoration;
  - Data collection campaigns and providing data systems technologies; and
  - Function as the intermediary for financing government work.
24. In line with the support provided to the national authorities, ICMP will seek to conclude cooperation agreements with national and international academic institutions, such as the American University of Iraq – Baghdad, to build the technical capacity of the next generation of Iraqi forensic and DNA experts. Finally, ICMP shall continue to cooperate with international organizations supporting advancing the missing persons process in Iraq, such as the ICRC and UNITAD.

### **IV. GENDER ANALYSIS**

25. In implementing the five-year plan, ICMP will work on ensuring that the specific rights of female survivors are secured. Since a majority of those who have disappeared are male, a disproportionate number of surviving families of the missing are women who are in many cases single heads of household. It is therefore critical that their rights to justice, truth and reparations are secured as part of the broader process of ensuring peace and stability.
26. ICMP's activities place women at the forefront and highlight the critical role they play and can continue to play in building a peaceful and just society. Incorporation of a gendered lens into this plan could increase the likelihood that legislative and practical barriers to the implementation of rights could be addressed (e.g., through the possibility of receiving a declaration of absence), and that women with missing husbands and fathers could be considered as a specific vulnerable group, to be targeted for services, assistance, and participation in peace and security initiatives. At the same time, the project will also address the consequences of social stigma/cultural norms and beliefs associated with the disappearance of women, e.g., the unwillingness of family members to report the disappearance of a female relative.

### **V. ICMP IN IRAQ**

27. ICMP works with governments, civil society organizations, justice institutions, international organizations and others throughout the world to address the issue of people who have gone missing as a result of armed conflict, human rights abuses, disasters, organized crime, migration and other causes.

28. Iraqi government sources estimate that between 250,000 and more than one million people are missing. Since establishing a presence in Iraq in 2008, ICMP has been delivering capacity building initiatives to develop the technical skills of the national authorities to account for the missing in Iraq, in an effort to support the authorities to comply with their obligations under national and international law (e.g. to conduct effective investigations). Such support by ICMP included:
- Training to more than 500 Iraqi technical specialists in charge of locating, recovering, and examining the remains of missing persons;
  - Training to Iraqi scientists in DNA analysis and to many other Iraqi technical specialists in the collection of genetic samples from families of the missing to assist in identifying the remains of missing persons;
  - Onsite technical support and mentoring to more than 35 field deployments in the protection and excavation of mass graves for instance at Camp Speicher in Tikrit, Sinjar and Badush; and
  - Technical, logistical and financial support to at least five DNA reference sample collection campaigns since 2019.
29. ICMP also works to strengthen mutual understanding and cooperation between civil society and the authorities. ICMP's capacity building initiatives helps bring CSOs and family representatives together with authorities that are in charge of excavations. Family seminars and townhall-style meetings organized by ICMP and CSOs raise awareness about excavations and campaigns to collect DNA samples from relatives of missing persons. In December 2021, ICMP held an awareness-raising event in The Hague and brought together Yazidi families of the missing from Germany and the Netherlands to discuss the issue of missing persons from Da'esh crimes, and to commemorate those who disappeared.
30. These measures have resulted in an improvement in the effectiveness of the missing persons process and increased the number of identified missing persons. ICMP regularly works with likeminded organizations, including the ICRC and UNITAD in implementing these support measures to the benefit of the Iraqi government.

**ANNEX 1: CONCLUSIONS DURING THE ICMP-HOSTED HIGH-LEVEL POLICY CONFERENCE WITH IRAQI AUTHORITIES**



**INTERNATIONAL COMMISSION ON MISSING PERSONS  
MISSING PERSONS IN IRAQ: THE WAY FORWARD CONFERENCE**

*The Hague - The Netherlands*

30 August to 1 September 2021

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**I. CONCLUSIONS**

Between 30 August and 1 September 2021, representatives of key Iraqi government institutions, including from the Kurdistan Regional Government, met in The Hague under the auspices of the International Commission on Missing Persons, a treaty-based intergovernmental organization, to review and agree upon a five-year strategic plan to enhance the process of locating tens of thousands of missing persons and to securing the rights of hundreds of thousands of surviving family members. The first day of the conference, 30 August, marked the International Day of the Victims of Enforced Disappearance.

Participants reached a broad consensus on the way forward and jointly concluded to:

1. Strive to create a central mechanism to coordinate the missing persons process;
2. Enhance planning at all levels, including through the adoption of a national plan or strategy;
3. Ensure that the activities of a central mechanism are inclusive across Iraq, working in coordination with the Kurdistan Regional Government;
4. Continue and enhance funding from the State to the relevant national institutions and encourage continued participation and support of the international community;
5. Improve data management, including through a central record that would be established through law or executive decision as required\*;
6. Acknowledge the critical importance of data protection and the need to protect data with respect to the relevant national law and international conventions ratified by Iraq, including the right to privacy of the families of the missing;
7. Ensure the participation of civil society and the families of the missing, as this is central to finding all missing persons;
8. Strengthen the capacity of civil society organizations in their work with families of the missing and in building bridges with government authorities;
9. Acknowledge the adoption of the Yazidi Female Survivors Law or any other law that might replace it, thereby ensuring that the specific rights of women survivors are secured, given that the majority of the missing are men, which leaves a disproportionate number of female survivors, many of whom become heads of household;

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10. Enhance efforts to bring perpetrators to account in accordance with Iraqi law and to enhance cooperation with judicial authorities in other countries, so that justice can be achieved and the rights of victims are secured\*;
11. Strive to ensure that Iraq accedes to the ICMP Treaty;
12. Ensure a high-level meeting with relevant institutions in Iraq within the next six months.

*\* Reservation expressed by the representative of the Ministry of Martyrs and Anfal Affairs*