

## REPORTS AND DOCUMENTS

# The development of guiding principles for the proper management of the dead in humanitarian emergencies and help in preventing their becoming missing persons: First Expert's Meeting

Geneva, 30 November–1 December 2018, University of Geneva Law Faculty, Swiss National Science Foundation, Right to Truth, Truth(s) through Rights project, and the ICRC Missing Persons Project, with the participation of the University of Milan Medico-Legal Institute, Laboratorio di Antropologia e Odontologia Forense, and the

## International Organization for Standardization

### Conference report\*

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### Executive summary

*When large numbers of people die as a result of humanitarian emergencies, their bodies and remains are often managed with little consideration for their dignity. This may impact the capacity to identify the deceased and prevent them from becoming missing persons. Many of the existing guidelines for managing the dead in emergencies, including those published by the International Police Organization, the World Health Organization and the International Committee of the Red Cross, are accomplished from a technical point of view, but offer little or no specific guidance on guaranteeing respect for the deceased and their remains. In 2018, the Missing Persons Project of the International Committee of the Red Cross and the Right to Truth, Truth(s) through Rights project of the University of Geneva convened a meeting of experts to discuss the need for developing guidance to guarantee the dignified treatment of the dead in humanitarian emergencies. Participants identified the need worldwide for a set of general principles to guide practitioners and decision-makers in their efforts to ensure respect for dead persons*

\* This report is a summary of a workshop. The views expressed here are those of the participants concerned and are not necessarily those of the organizations that they represent.

*and human remains in humanitarian emergencies, and recommended their development.*

**Keywords:** missing persons, humanitarian emergencies, dignified management of the dead.



## Introduction

At the end of 2018, the Missing Persons Project of the International Committee of the Red Cross (ICRC) and the Right to Truth, Truth(s) through Rights (RTTR) project of the University of Geneva<sup>1</sup> jointly organized an international meeting of experts to discuss the need to develop principles for the dignified management of the dead in humanitarian emergencies, including to prevent them from becoming missing persons.

The meeting, held at the Faculty of Law of the University of Geneva on 30 November and 1 December 2019, was the first of its kind, convening researchers and practitioners from the fields of forensic science, law and social anthropology, as well as humanitarian and military experts. Participants also included representatives from the International Organization of Standardization and of the International Police Organization (INTERPOL).

This was the first event organized by the Missing Persons Project,<sup>2</sup> a four-year institutional initiative launched by the ICRC in 2018 to develop technical standards for practitioners and policy-makers and to empower communities of practice for preventing and resolving the issue of the missing worldwide.

The Missing Persons Project had identified the mismanagement of the dead as one of the many reasons why the victims of humanitarian emergencies go missing.<sup>3</sup> Existing guidelines for managing the dead, such as INTERPOL's *Disaster Victim Identification Guide*<sup>4</sup> and the manual for first responders for the management of the dead published by the ICRC and the World Health Organization (WHO),<sup>5</sup> are accomplished from a technical point of view, but offer little or no guidance for ensuring the respectful and dignified management of the dead and their remains. After consultation on this regard with the RTTR project of the University of Geneva, the latter offered to jointly convene a meeting of selected experts from around the world to discuss the pertinence of developing guidance on this matter.

1 Project funded by the Swiss National Science Foundation. See: [www.right-truth-impunity.ch/en](http://www.right-truth-impunity.ch/en) (all internet references were accessed in May 2020).

2 See ICRC, *Missing Persons Project: Working Together to Address a Global Human Tragedy*, Geneva, 2018, available at: [www.icrc.org/en/publication/4375-missing-persons-project](http://www.icrc.org/en/publication/4375-missing-persons-project).

3 Stephen Cordner and Morris Tidball-Binz, "Humanitarian Forensic Action: Its Origins and Future", *Forensic Science International*, Vol. 279, 2017.

4 INTERPOL, *Disaster Victim Identification Guide*, 2018, available at: [www.interpol.int/en/content/download/589/file/18Y1344%20E%20DVI\\_Guide.pdf](http://www.interpol.int/en/content/download/589/file/18Y1344%20E%20DVI_Guide.pdf).

5 Stephen Cordner, Rudi Coninx, Kim Hyo-Jeong, Dana van Alpen and Morris Tidball-Binz (eds), *Management of Dead Bodies after Disasters: A Field Manual for First Responders*, 2nd ed., WHO and ICRC, Geneva, 2016.

The report that follows summarizes the discussions, conclusions and recommendations from the two-day meeting held in Geneva.

## **Challenges of forensic practice in humanitarian emergencies for ensuring the proper management of the dead**

Participants recognized that unprofessional and undignified management of dead persons and their human remains often follows humanitarian emergencies with large numbers of fatalities, and that this negatively influences their identification, including to help prevent them from becoming missing persons.

The need to address the challenges that forensic work faces in contexts of humanitarian emergencies was therefore presented as an important topic for discussion, specifically in relation to the dignified management of the dead, including to help prevent them from becoming missing persons. Two specific questions surfaced. On the one hand, there is a pressing need to address whether existing guidelines and standards for forensic practice in humanitarian emergencies are sufficient to ensure the successful application of forensic techniques to protect the dignity of the dead. On the other, this begs the question of whether forensic practice worldwide may be improved for ensuring the dignified management of the dead in humanitarian emergencies, including preventing their becoming missing persons, through a set of new guiding principles, which should be indisputable and agreed upon by all parties involved.

Over the years, forensic specialists have drawn on multiple recommendations issued by international organizations involved in the management, administration and assessment of humanitarian forensic response. These recommendations appear in documents such as the United Nations (UN) *Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (1991, revised in 2016);<sup>6</sup> the ICRC report *The Missing and their Families* (2003); the WHO/ICRC's *Management of Dead Bodies after Disasters: A Field Manual for First Responders* (updated in 2016);<sup>7</sup> INTERPOL's *Disaster Victim Identification Guide* for experts in the field (updated in 2018);<sup>8</sup> the standards created by the Organization of Scientific Area Committees for Forensic Science,<sup>9</sup> part of the National Institute of Standards and Technology of the US Department of Commerce; and the materials generated by the International Commission on Missing Persons, Justice Rapid Response, the UN Office on Drugs and Crime and the Disaster Mortuary Operational Response Team, part of the US Department of Health and Human Services. In addition to these, there is also the specialist literature on the field of forensics published in

6 UN, *The Minnesota Protocol on the Investigation of Potentially Unlawful Deaths: The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, UN Doc. HR/PUB/17/4, New York and Geneva, 2017 (UN Doc. E/ST/CSDHA/12, 1991).

7 S. Cordner *et al.*, above note 5.

8 INTERPOL, above note 4.

9 See OSAC, "OSAC Registry Approved Standards", available at: [www.nist.gov/topics/organization-scientific-area-committees-forensic-science/osac-registry-approved-standards](http://www.nist.gov/topics/organization-scientific-area-committees-forensic-science/osac-registry-approved-standards).

journals such as *Forensic Science International* and the *International Review of the Red Cross*.

A look into some of these manuals, and into forensic work as it happens in practice, shows that there is a gap in these recommendations with respect to guiding principles for protecting the dignity of the dead. Experts identified ongoing difficulties connected to the mobilization of first responders on the ground and the appropriate individualization and disposal of dead bodies. Further work should include the development of specific, complementary guidance in humanitarian forensic action for ensuring the dignified management of the dead.

## Main discussion points

Thinking about the best ways of achieving a holistic approach to forensic action that ensures the dignified management of the dead in humanitarian emergencies was identified as a priority. Diverse examples revealed how issues of coordination, management, training and the evaluation of forensic performance at national and international levels play an important part in the implementation of forensic protocols in humanitarian settings.

First, participants identified that, though protocol is usually uniformly applied by all actors involved in a crisis scenario, principles of humanitarian response do not seem to pay enough consideration to forensic guidelines and standards. Moreover, there is a clear need to define the scale, location and characteristics of the humanitarian contexts in which forensic specialists operate. It is paramount to delineate the type of emergency that is being addressed, whether a situation of armed conflict or mass violence, or one of natural disaster or migration, in order to gauge the obstacles and facilities that might exist for access to and development of forensic work. Emergency contexts requiring the dignified management of the dead, including for preventing them from becoming missing persons, are diverse – socially, culturally and politically – and as such demand a differential approach.

Additionally, further consideration was given to problems related to the existing forensic capacity in local settings. One of the most challenging areas continues to be the frequent absence of forensic specialists on the ground in humanitarian emergencies, due to the unavailability, for the most part, of a “cluster” on the management of the dead in national and local emergency services. Professionals of the health “cluster” not experienced in the management of the dead are often mobilized instead, while forensic expertise remains mostly absent from national emergency plans. Shortage of forensic specialists can occur due to the lack of sufficient capacity, including specialized training and necessary resources, observed in some national medico-legal and police institutions. Moreover, in some humanitarian contexts, there might be a reluctance to care for the dead – in order to first care for the living – given the time constraints and the challenges that large-scale humanitarian emergencies present. This negatively impacts the dignified management of the dead and contributes to them becoming missing persons.

In relation to the evaluation of forensic performance connected to the treatment of the dead across contexts, practitioners commented on the limited scope of the assessments usually carried out to measure, in particular, the proper and dignified management of the dead in large-scale humanitarian emergencies. Such assessments, if and when carried out, are usually only based on the quantitative evaluation of forensic performance in connection to the number of bodies recovered and identified through DNA or other forensic analysis, and the time deployed to do so, often ignoring whether their dignity and that of their families and communities was respected and protected. This narrow approach has hindered other forms of qualitative evaluation, which can provide insights into often overlooked areas that also pose challenges for experts, such as the communication established between forensic practitioners and families, or the interface between forensic labour and context-specific cultural and religious factors (see the section below on the importance of recognizing social, cultural and religious diversity).

A review of the standards and guidelines on the management of the dead that already exist should assess the issue of “dignity” or how the dead are treated in practice. Despite the existence of various manuals on the subject, the frequent mismanagement of dead bodies, especially with regard to the disposal of unidentified corpses, remains high in large-scale humanitarian emergencies. Participants agreed that in many cases practitioners objectify dead bodies on the field, forgetting the fact that they were once living persons; this happened, for example, in the aftermath of the January 2010 earthquake in Haiti, when hundreds of dead bodies were hastily buried in pits with little or no consideration for their dignity.<sup>10</sup> In addition to this, recommendations often take the position of the professionals carrying out the work, focusing more on processes and technical aspects than on the respect that the dead deserve. There is a need to shift the focus from the operator to the dead and to ensure the appropriate care and respect for the dead person. Some experts suggested the need to reflect further on the concept of dignity, bearing in mind that attempting a definition of the term can lead to controversies about its shifting social, cultural and legal meanings from one context to the next (see discussion below).

With a view to bridging the chasm between different domains of forensic action regarding the dignified management of the dead, participants agreed that forensic work ought to be set up multilaterally with, among others, governments and international humanitarian agencies, in order to enable an all-encompassing approach to the proper management of the dead in large-scale humanitarian emergencies. Guiding principles may include points that are common to all humanitarian emergency contexts and may later be adapted to specific national and cultural frameworks. More efforts ought to be directed at making political institutions, media outlets and international organizations aware of the value of these guidelines in order to ensure the dignified treatment of the dead.

10 “Haiti Shows the Importance of Dealing with Dead Bodies When Disaster Strikes”, *The Guardian*, 1 November 2012, available at: [www.theguardian.com/global-development/2012/nov/01/haiti-dead-bodies-disaster-strikes](http://www.theguardian.com/global-development/2012/nov/01/haiti-dead-bodies-disaster-strikes).

## Legal and ethical frameworks for managing the dead and preventing them from becoming missing persons

Identifying the specific international and national legal frameworks applicable to the dignified management of the dead and the prevention of persons becoming missing in large-scale humanitarian emergencies was highlighted as a crucial aspect for ensuring the appropriate development and implementation of forensic work in these situations. From this perspective, five different categories of norms were selected for discussion:

1. International humanitarian law (IHL), which includes in particular the four Geneva Conventions (1949) and their three Additional Protocols (1977/2005). These are binding over all parties to an armed conflict occurring between States Parties or on the territory of a State Party. Moreover, six of the 161 rules of customary IHL (Rules 112–117) address legal questions related to the dead and missing (i.e., the obligation to account for the dead and missing; the obligation to search for, collect and treat the dead respectfully; and the dignified disposal and return of human remains and personal effects to families). The Geneva Conventions and Additional Protocol I foresee three main institutional frameworks to reinforce these principles. According to these, belligerent parties must (1) set up an official Graves Registration Service at the beginning of hostilities to mark and maintain the graves; (2) establish national bureaux to centralize and transmit information, and initiate inquiries; and (3) create a Central Information Agency or resort to the ICRC Central Tracing Agency to prevent people from going missing. Additional Protocol I also protects the right of families to know the fate of their missing relatives.
2. International human rights law (IHRL), which applies in all contexts of humanitarian emergency—and is especially important in peacetime, when IHL does not generally apply. IHRL guarantees, among other rights, the right to life, the protection of human dignity and the prohibition of torture, the right to private and family life, the right to an effective remedy, the right to an effective investigation and the right to truth.
3. International criminal law (ICL), which is relevant in particular scenarios where serious violations of rules related to the dignified handling of the dead amount to an international crime, notably a war crime under Article 8(2)(b)(xxi) of the Rome Statute of the International Criminal Court, and the *Elements of Crimes*, which specify that this provision is applicable to acts committed against dead persons.
4. International disaster response law, which corresponds to various soft-law instruments that seek to ensure the effectiveness and quality of international disaster relief operations in situations of armed conflicts and natural disasters. Examples of such instruments include the 2011 Sphere Project handbook,<sup>11</sup> which provides a set of minimum standards to guide humanitarian response.

11 Sphere Project, *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 3rd ed, Practical Action Publishing, Rugby, 2011.

5. Domestic legal frameworks, which include the national implementation of international law (IHL, IHRL and ICL) and standards. These frameworks also include a great variety of domestic legal tools (e.g., criminal, civil, administrative, medical and bioethical law), reflecting national idiosyncrasies.

One of the most important concerns in relation to the above-mentioned bodies of law is the fact that not all of these have the same content, nature or binding force. This has generated multiple and diverse legal provisions and texts, which has led to a fragmentation of, and lack of harmonization between, legal tools. While this can be considered an advantage in relation to a need for legal pluralism, it creates a chaotic and sometimes conflictual legal configuration, filled with gaps – notably, in relation to the treatment of the dead and missing – and fraught with problems of interpretation and implementation.

Moreover, provisions relating to the respectful handling of the dead and the prevention of persons going missing represent a very small drop in the ocean of IHL, IHRL and ICL norms. In addition to this, most existing norms on this subject require further development. IHRL norms, for instance, remain poor in relation to the protection of the dead, as the legal status of a dead body continues to generate academic debate without reaching consensus. Defining the dead body as an object or a person could have profound consequences for the manner in which human remains are treated. It could also shape broader definitions of dignity, bearing in mind that distinctions made about the dead as an object or a person are deeply entrenched in specific socio-cultural understandings. All in all, conflicts between norms but also between the rights of the living and the (potential) rights of the dead demand a critical examination of existing legal instruments, their content and their implementation in order to ensure the respectful handling of the dead.

## Main discussion points

In light of their concrete experience in the field, experts shared the view that international law does not necessarily cover every situation on the ground in relation to the proper management of the dead in humanitarian emergencies. Nevertheless, gaps in the current legal framework were perceived as a potential strength in order to address specific issues through other creative, non-legal means.

Discussions focused on the possibility of developing a general set of principles relating to the treatment of the dead in humanitarian emergencies. On the one hand, trying to reach consensus between all the parties involved in negotiating potential guidelines could risk creating an instrument that is meaningless in terms of guiding humanitarian forensic action. On the other, the quest for universality might undermine the need for social, cultural and religious sensitivity and respect for diverse mortuary practices – especially when the communities concerned are not adequately represented in the negotiations (see the section below on the importance of recognizing social, cultural and religious diversity). These issues could be mitigated by establishing guiding principles that



leave stakeholders some margin to decide how best to implement them depending on their social, cultural and heritage needs.

Participants debated whether principles should take as their focus or point of departure the “dead” or the “missing”. Referring to the “missing” in line with the use of the term by the ICRC’s Missing Persons Project could help settle this point, but this solution would not remove the need for a distinction between death and the absence that results from enforced disappearance or a person going missing, either dead or alive. Taking the broader concept of the “missing” – which is not defined in international law – as a point of departure would also require previous reflection on the understanding of this concept. Some experts argued that while the ICRC’s mandate is traditionally limited to armed conflicts and armed violence, the notion of “missing persons” in the proposed principles ought to be expanded to other situations of mass violence, disaster and migration. The ICRC has aimed to define the “missing” in a way that is open and inclusive enough to encompass persons

whose whereabouts are unknown to his or her relatives and/or who, on the basis of reliable information, has been reported missing in accordance with national legislation in connection with an international or non-international armed conflict, a situation of internal violence or disturbances, natural catastrophes or any other situation that may require the intervention of a competent State authority.<sup>12</sup>

Others, however, argued in favour of speaking only of the “dead”. Experts warned about the importance of not blurring categories of persons protected by the existing legal framework by overly broadening these definitions.

Discussions also dealt with the content of the proposed set of guiding principles. It was commonly agreed that principles should provide a definition of the process of “managing the dead”, which should be incorporated to the larger spectrum of responses to humanitarian emergency. Some specialists highlighted the need to develop such guiding principles addressed to non-forensic actors such as policy-makers, particularly on issues that are not contemplated in existing, mostly technical texts. Some of these relate but are not limited to philosophical and ethical considerations on the legal status of the dead and their dignity. On the one hand, the fact that legal personality generally ceases with death poses questions about whether the dead do indeed have “rights”, in addition to the controversies surrounding the definition of death *per se*. On the other, the notion of “dignity” remains an ambiguous concept, and there is no consensus on its meaning in legal terms – nor is there agreement from a philosophical, ethical or anthropological perspective. Trying to suggest a definition of the term “dignity” would thus be problematic and may not assist practitioners in achieving their goal. Agreement prevailed, however, on referring to the term “dignity”, as used in existing international instruments for the purpose of ensuring the respectful treatment of the dead and helping to prevent them from becoming missing persons.

12 See ICRC, *Missing Persons: A Handbook for Parliamentarians*, Geneva, 2009, available at: [www.icrc.org/en/publication/1117-missing-persons-handbook-parliamentarians](http://www.icrc.org/en/publication/1117-missing-persons-handbook-parliamentarians).

In terms of possible paths forward, participants discussed whether the proposed instrument should have binding force in order to be eventually incorporated by States as part of their domestic legislation. They also considered whether, on the contrary, the guiding principles should be compiled in the form of soft law, which might only give a sense of best practices. Participants agreed that this might not be the best moment to propose a new binding instrument; thus, alternative solutions were discussed. For example, it was pointed out that, at the domestic level, further standards of a technical kind could reinforce local communities of practice for improving the management of the dead. Moreover, at the international level, voluntary standards and non-binding provisions could be developed in conjunction with States. These could be combined within an ecosystem of norms or a pyramid framework, through which guiding principles could be created and implemented (see the section below on potential pathways for standardization). Agreement prevailed on the preference for a set of general, non-binding principles based on existing best practices and/or accepted normative frameworks.

## **The importance of recognizing social, cultural and religious diversity for the proper management of the dead**

Discussions among participants at the meeting highlighted the fact that social, cultural and religious factors have a direct impact on the development and implementation of forensic work in humanitarian emergencies as it applies to the management of the dead. All cultural systems devote major symbolic and structural efforts to handling the dead. Appropriate ways of burying, mourning, remembering and commemorating the deceased have a deep impact on individuals and their communities. In humanitarian emergencies, social, cultural and religious understandings of death intersect but can also clash with forensic knowledge and practice. Incorporating the diversity and heterogeneity of these phenomena into existing guidelines, general principles and/or standards that inform the work of forensic experts in the aftermath of extreme violence or disaster thus remains a great challenge.

A multidisciplinary approach to forensic action in humanitarian emergencies opens up the possibility of collaboration with other fields in the social sciences, such as social and cultural anthropology. Socio-cultural anthropologists have been concerned with the cultural meanings and practices associated with the treatment and disposal of the dead since as far back as the nineteenth century. Recent anthropological studies concerned with the search for, recovery and identification of dead and missing persons en masse have warned about the importance of considering the relation between local ritual practices around death, aimed at securing the fate of the soul in its afterlife, and international forensic protocols. This can lead, they argue, to a better grasp of the misunderstandings that arise in the exchanges which take place between forensic experts and bereaved communities in the field.

International projects such as *Below Ground: Mass Graves Exhumations and Human Rights in Historical, Transnational and Comparative Perspective*,<sup>13</sup> hosted at the Spanish National Research Council, examine the management or government of the dead – or necropolitics – in countries such as Spain, Argentina, Peru, Mexico, Poland and Vietnam. In these contexts, experience has revealed strong points of tension between the forensic logic of individualization and community-oriented forms of collective body disposal. Additionally, these case studies have observed that popular representations of forensic science – the so-called “CSI effect” – have generated distorted visions of the forensic method and what forensic science can achieve in complex scenarios of humanitarian emergency. This has often created false expectations and feelings of disappointment in surviving relatives and local populations.

Social, cultural and religious considerations demand a flexible approach to the implementation of humanitarian forensic action. Protocols should aim to be sufficiently “soft” in order to accommodate context-specific differences. In this regard, rethinking current guidelines in relation to specific social, cultural and religious factors might also entail reconsidering pre-established understandings of what the “dignified” treatment and burial of the dead means across contexts. It might also involve engaging with families from the early stages of the forensic process – instead of at the end, during the disposal of the body – or contemplating other forms of identification. Participants to the meeting gave as an example the case of mass graves from the Spanish Civil War (1936–39) and the post-war period, which have been exhumed in Spain mostly since the year 2000. Throughout the last two decades, in Spain – as well as in other places like Guatemala and Iraq – some communities have opted to bury the dead bodies of their relatives and neighbours in a collective manner, either because they simply preferred this course of action or because positive identification of all corpses was unlikely. Some experts described these as emerging “communities of death”, which identify and pay tribute to their dead through forms of collective reburial and memorialization.

Social scientists, such as socio-cultural anthropologists, can act as mediators between forensic practitioners and communities in order to facilitate the exchange between international guidelines of forensic practice and local approaches to the management of the dead. They might also aid with the translation of culturally diverse customs and language associated with the recovery, burial and commemoration of the dead and missing in different crisis scenarios.

13 See Francisco Ferrándiz, *Below Ground: Mass Grave Exhumations and Human Rights in Historical, Transnational and Comparative Perspective*, Instituto de Lengua Literatura y Antropología, 2016–18, available at: <http://illa.csic.es/en/research-project/below-ground-mass-grave-exhumations-human-rights-historical-transnational>.

## Main discussion points

Reflecting on social, cultural and religious factors in humanitarian emergencies implies looking at the work of forensic specialists from a different angle. Forensic science has commonly been conceived in relation to the legal and judicial purposes that it serves. Some experiences recall that social, cultural and religious aspects are often subject to the requirements of judicial investigations and are thus overlooked in order not to compromise the outcome of legal processes. Indeed, as discussed above, the applicable law in a given context shapes humanitarian action. Nevertheless, according to some experts, considering forensic work in humanitarian emergencies requires attention to the tensions that emerge between law, science and social, cultural and religious dimensions connected to the treatment of the dead.

Important information transfer problems exist in relation to how international forensic guidelines and manuals are communicated to forensic practitioners on the ground. Specialists explained that the recurring mismanagement of unidentified bodies—which often suffer the most uncertain and neglectful of fates—and their improper disposal demonstrate the lack of a unified approach to this issue.<sup>14</sup> Prioritizing the identification of some corpses over others, a common practice in some contexts, can be remedied through a better understanding of the power imbalances generated by class, ethnicity or ideological distinctions in the management of the dead in different contexts. Additionally, experts observed that efforts towards the dignified and equitable care of all dead are also hampered by the limitations in capacity and resources faced by many local forensic systems and their staff, as mentioned above. This is particularly true in humanitarian emergencies, when the existing capacity for properly handling the dead may be overwhelmed by the large number of fatalities.<sup>15</sup>

Furthermore, guiding principles for dealing with the dead in humanitarian emergencies ought to recognize that there are often local strategies for managing and caring for the dead, which can complement the practice of international and local forensic specialists. Serious consideration of and respect for cultural and religious rituals around death may help to solve ongoing difficulties and transcend dominant approaches to forensic action. Some participants agreed that more training on the management of the dead and their identification should be provided to forensic practitioners at all levels in order to generate an awareness of the unintended effects of forensic practices on local populations, encourage respect for site-specific customs, and promote flexibility and adaptability to the

14 Roberto C. Parra, Élisabeth Anstett, Pierre Perich and Jane Buikstra, “Unidentified Deceased Persons: Social Life, Social Death and Humanitarian Action”, in Roberto C. Parra, Sara C. Zapico and Douglas H. Ubelaker (eds), *Forensic Science and Humanitarian Action: Interacting with the Dead and the Living*, Wiley & Sons, Hoboken, NJ, 2020; Adam Rosenblatt, *Digging for the Disappeared: Forensic Science after Atrocity*, Stanford University Press, Stanford, CA, 2015.

15 Stephen Cordner and Sarah T. D. Ellingham, “Two Halves Make a Whole: Both First Responders and Experts are Needed for the Management and Identification of the Dead in Large Disasters”, *Forensic Science International*, Vol. 279, 2017.

local context. Experts also emphasized the importance of developing principles for appropriate communication with bereaved families – in compliance with their right to know and right to truth – as well as communities and religious leaders before, during and after forensic operations and the identification process. This might involve forms of community engagement in consultation with social scientists.

The group agreed that exploring social, cultural and religious dimensions in too much depth might render too arduous a general definition of what is meant by “dignified treatment of the dead”. Guiding principles should instead incorporate a broad reference to social, cultural and religious awareness. More specific standards could, however, be designed for particular contexts through multi-stakeholder processes, including participants from different outlooks and trajectories.

## **Potential pathways for standardization: The International Organization for Standardization**

One of the avenues available for the development of a set of guiding principles is drafting them through the International Organization for Standardization (ISO). ISO is an independent, non-governmental international organization with a membership of 164 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market-relevant international standards that support innovation and provide solutions to global challenges. ISO has published 22,656 international standards and related documents, covering almost every industry, from technology and food safety to agriculture and health care.

There are two main approaches for developing the intended principles through ISO: the formal standards development process via committee and the International Workshop Agreement. These differ on the level of consensus, time to market, intended users, and normative versus informative value. Both approaches are described in the ISO and International Electrotechnical Commission directives and policies, which define the basic procedures to be followed in the development of international standards and other publications.<sup>16</sup> They may take from eighteen months to a maximum of four years to be completed, depending on the level of consensus, from the most basic standards to the most advanced. While the International Workshop Agreement route is based on inputs from invited stakeholders, the committee route implies drafting standards through one of the ISO 245 Technical Committees (TCs). TCs are arranged by subject and may be divided into subcommittees and/or working groups. TCs ensure wide representation from all relevant stakeholders at national and international levels. They secure the participation of national stakeholders through work with the National Mirror Committees, which represent the views on proposed standards from actors such as governments, academics, consumers, laboratories and non-governmental organizations.

16 See ISO, “Directives and Policies”, available at: [www.iso.org/directives-and-policies.html](http://www.iso.org/directives-and-policies.html).

The committee route corresponds to a formal standards development process, which can be summarized as follows:

1. Based on stakeholders' needs, a new work item proposal needs to be submitted to the committee.
2. If the set approval criteria are met, the proposal is allocated to a working group to build a consensus among the experts nominated by participating ISO members and international organizations in liaison.
3. The project is circulated to committee members (i.e., National Mirror Committees with wider stakeholder representation), to build consensus.
4. The inquiry on a draft international standard is opened to all ISO members (national public inquiries).
5. Members vote on the final draft international standard (proof-checked by the Secretariat).
6. International standards are published.

Participants discussed the committee approach as a possible avenue for the development of principles on the dignified management of the dead in humanitarian emergencies. In such a case, a committee that would be particularly interesting as a forum for discussion for the development of guiding principles is ISO/TC 292 on Security and Resilience, which has developed standards, for example, on emergency management,<sup>17</sup> the involvement of spontaneous volunteers<sup>18</sup> and the support of vulnerable communities in these situations.<sup>19</sup> Under this approach, the ICRC would need to become a liaison organization in order to be allowed to submit a work proposal. Later, the liaison organization may propose a convener to move the discussion into a working group, for which member States interested in the topic might provide experts. Last, the text produced by the working group may be circulated and commented on by other ISO members.

## Main discussion points

Experts discussed whether the ISO was the appropriate avenue for standardizing general rules or principles on the dignified management of the dead in humanitarian emergencies. Given the technical nature of ISO processes, some participants questioned the benefit of ISO standards in the development of guiding general principles beyond what may already be found in existing guidelines such as the ICRC/WHO manual. Nevertheless, other participants considered that the ISO's procedures offered an opportunity to solve technical difficulties in a simple and organized manner. Moreover, ISO standards might

17 ISO 22320:2018, "Emergency Management – Guidelines for Incident Management"; ISO/PWI 23804, "Emergency Management – Framework".

18 ISO 22319:2017, "Community Resilience – Guidelines for Planning the Involvement of Spontaneous Volunteers".

19 ISO 22395:2018, "Community Resilience – Guidelines for Supporting Vulnerable Persons in an Emergency".

also provide credibility and support to the intended set of general principles by disassociating their elaboration from the ICRC – which might not be endorsed by all organizations or countries.

Additionally, the group discussed whether the ISO was a plausible and authoritative enough source to which forensics practitioners could turn for guidance on their practice, and whether its expertise could help create a robust set of guiding principles. In that respect, the ISO has already established a committee, ISO/TC 272 on Forensic Sciences, which has published standards such as ISO 18385:2016, “Minimizing the Risk of Human DNA Contamination in Products Used to Collect, Store and Analyze Biological Material for Forensic Purposes – Requirements”, and ISO 21043-2:2018, “Forensic Sciences – Part 2: Recognition, Recording, Collecting, Transport and Storage of Items”. ISO standards also provide a basis for the accreditation of laboratories – a practice which has driven forensic professionalism at large. Moreover, accreditation is often required to help ensure public confidence in the procedures used – a key objective for the forensic humanitarian response system – and to ensure the mutual recognition of forensic professionals.

If ISO procedures were to be considered as a way forward, participants agreed on the need to evaluate the steps that the process might involve and the difficulties that it might entail. Experts highlighted the possibility of losing the necessary specific influence in the drafting process of the text and the inability to reach an agreement as the potential risks associated with a wide consensus-based process. These risks, however, might be mitigated by proposing an advanced version of the intended set of general principles, with an agreed terminology, which constitutes a solid basis from which to elaborate the document and set the margins for the discussion.

## **Conclusions: Open questions and the way forward**

The discussions that took place over the course of this workshop led, firstly, to different open questions about the need to create guiding principles in order to fill the gaps identified in existing manuals and their implementation for the dignified management of the dead in large-scale humanitarian emergencies, including to prevent them from becoming missing persons. These considerations led to the conclusion that the best way to address the deficiencies observed in the planning and implementation of forensic practices in these scenarios could be through the development of a set of general principles. These should gather and recall, in a short and concise manner, the main norms and rules currently scattered and fragmented in the existing corpus of IHL, IHRL and forensic guides and manuals. This document should aim to reflect the spirit in which existing instruments and tools ought to be translated, applied and implemented on the ground.

In relation to the content of a set of guiding principles, participants highlighted the need to define what is meant by situations of “humanitarian

emergency” before delving further into other substantial issues. Experts argued that future conversations on new directives for humanitarian forensic action ought to address the challenges—and therefore the demands—that specific (past and present) contexts of armed conflict, mass violence, natural disaster or mass migration present. Defining the type of crisis scenario in which forensic techniques are applied can help identify appropriate forensic procedures as well as the needs of populations in diverse emergency settings. Moreover, these reflections might also shed clarity on the use of terms such as the “dead” and the “missing” as part of new principles, with the aim of avoiding referring to them interchangeably. Experts acknowledged that the lack of a nuanced definition of these terms, which recognizes their diverse signification in relation to different contexts of violence and mass death and avoids the potential hierarchization of the dead, demands further examination from a forensic, legal and socio-cultural perspective in future meetings.

Participants at the meeting also agreed on the need to address the appropriate and dignified handling of the dead not only in relation to how it might be conceived through forensic protocols, training and practice, but also in connection to the social, cultural and religious aspects that surround the recovery and identification of the dead in crisis scenarios. In this regard, experts recognized the need to factor diversity into existing guidelines by acknowledging the context-specific mortuary practices and beliefs already in place in the settings where humanitarian forensic action operates. Discussions addressed the necessity of taking into account social, cultural and religious understandings that might challenge pre-established notions around the “proper” identification and burial of the dead (in which individualized versus collective forms of body disposal might be in tension); the need to improve communication between forensic experts and bereaved communities; and the urgency of debunking misguided conceptions of the forensic method.

Serious consideration of social, cultural and religious phenomena was also conceived as necessary in order to enable the “dignified” treatment of the dead. Debates touched upon the ambivalence that surrounds the meaning of dignity from legal, philosophical, ethical and anthropological perspectives and, as a result, the difficulty of defining the concept. Thus, experts agreed that the proposed principles should not attempt to reach a definition of the concept of dignity. Similarly, they concluded that these principles should not aim to embark on convoluted legal or philosophical debates around controversial issues connected to the notion of death itself or the legal status of the dead and human remains. Instead, general principles should aim to connect the “dignified” treatment of the dead to the particular social, familial, cultural and religious demands that emerge in concrete situations of humanitarian emergency, as well as to the need to negotiate these with existing ethical assumptions entertained in international forensic protocols and practice.

With regard to a way forward, participants stressed the need to consider specific collective work on the drafting of such complementary principles through the establishment of multi-stakeholder efforts formed by a multiplicity of



forensic, civil society, governmental and community actors. Conversations also considered the possibility of collaboration with the ISO. Participants recognized, however, the challenges that standardization could pose, emphasizing the need to avoid the homogenization of situations of humanitarian emergency through a one-size-fits-all, standardized approach, and the importance of taking into account the diversity that characterizes the humanitarian contexts in which forensic practitioners work.

Participants at the meeting acknowledged the need to develop a set of guiding principles on the dignified management of the dead in humanitarian emergencies, including to prevent them from becoming missing persons. These principles shall reflect the considerations shared during the event. Participants agreed that the principles should be drafted in the months following the meeting and offered to contribute to the development and revision of the document. They also agreed on the pertinence of preparing a publication summarizing the discussions of the meeting and entrusted the organizers of the meeting with this task.