



General Assembly

Distr.: General
25 July 2014

Original: English

Human Rights Council Working Group on Enforced or Involuntary Disappearances

Post-sessional document*

103rd session (7–16 May 2014)

I. Introduction

1. The present document reflects the communications and cases examined and other activities by the Working Group on Enforced or Involuntary Disappearances at its 103rd session, held from 7 to 16 May 2014.

II. Communications

2. Between its 102nd and 103rd sessions, the Working Group transmitted 40 cases under its urgent action procedure, to Bahrain (2), Cambodia (1), China (5), the Dominican Republic (1), Egypt (3), Indonesia (1), Pakistan (18), the Syrian Arab Republic (1), Thailand (1), the United Arab Emirates (5) and Yemen (2).

3. At its 103rd session, the Working Group decided to transmit 81 newly reported cases of enforced disappearance to 15 States. The Working Group also clarified 23 cases, in Bahrain (1), China (2), Egypt (1), Morocco (1), Sri Lanka (1), the Syrian Arab Republic (2), and the United Arab Emirates (15). Two cases were clarified on the basis of information provided by the Governments and 21 on the basis of information provided by sources.

4. Between its 102nd and 103rd sessions, the Working Group, following its prompt intervention procedure, transmitted, jointly with other special procedure mechanisms, five communications, to Bangladesh (1), Guatemala (1), Pakistan (1) and Sri Lanka (2). The Working Group also transmitted, jointly with other special procedure mechanisms, five urgent appeals concerning persons who had been arrested, detained, abducted or otherwise deprived of their liberty or who had been forcibly disappeared or were at risk of disappearance in China, Mexico, the Russian Federation, Ukraine and the United Arab Emirates.

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5. At its 103rd session, the Working Group also reviewed four general allegations, concerning Bosnia and Herzegovina, Libya, Mexico and Spain.

III. Information concerning enforced or involuntary disappearances in States reviewed by the Working Group during the session

Algeria

Standard procedure

6. The Working Group transmitted 22 cases to the Government of Algeria.
7. The first case concerned Mr. **Abderrahim Atik**, allegedly arrested on 8 January 1996 by the police in front of his house in Kouba.
8. The second case concerned Mr. **Adil Torki**, allegedly arrested on 11 September 1994 by the police of Cheraga in the environs of Staouali.
9. The third case concerned Mr. **Benaoumeur Araf**, allegedly arrested on 16 October 1994 in Arzew by members of the military security.
10. The fourth case concerned Mr. **Noureddine Aras**, allegedly arrested on 13 November 1994 in Oran by members of the military security in plain clothes.
11. The fifth case concerned Mr. **Omar Arif**, allegedly arrested on 25 October 1993 by government forces in Oran.
12. The sixth case concerned Mr. **Abdessalem Ayad**, allegedly arrested in mid-November 1994 by soldiers in the village of Oued Zitoune in Daïre de Sabra in the Wilaya of Tlemcen.
13. The seventh case concerned Mr. **Khleil Bayour**, allegedly arrested on 2 July 1994 at his workplace in Blida by military officers.
14. The eighth case concerned Mr. **Miloud Belabbas**, allegedly arrested on 26 March 1994 in Oran by members of the military security.
15. The ninth case concerned Mr. **Karim Belabid**, allegedly arrested on 22 April 1999 in Tizi Ouzou by members of the military security.
16. The tenth case concerned Mr. **Mohamed Belaidi**, allegedly arrested on 17 August 1994 in Tizi Ouzou by soldiers of the barracks of Tadmait.
17. The eleventh case concerned Mr. **Kadda Beldjillali**, allegedly arrested on 15 February 1997 by the police at his workplace in Oran municipality.
18. The twelfth case concerned Mr. **Mohamed Beldjillali**, allegedly arrested on 16 February 1997 in Oran by the police.
19. The thirteenth case concerned Mr. **Mokhtar Beldjillali**, allegedly arrested on 15 August 1997 in Oran by the police.
20. The fourteenth case concerned Mr. **Benyamina Belguendoz**, allegedly arrested on 22 November 1995 by members of the military security in plain clothes in Ain Biya Bethioua in the Wilaya of Oran.
21. The fifteenth case concerned Mr. **Mohamed Belkadi**, allegedly arrested on 4 June 1994 in Oran by military officers.

22. The sixteenth case concerned Mr. **Belkadiri Laredj**, allegedly arrested on 15 April 1995 in Oran by the police.
23. The seventeenth case concerned Mr. **Abdelghani Benabdi**, allegedly abducted on 28 August 1994 from the mosque of Azaba by the police.
24. The eighteenth case concerned Mr. **Youcef Benaissa**, allegedly arrested on 1 August 1996 by gendarmes of Berrouagua.
25. The nineteenth case concerned Mr. **Abdessamad Benanane**, alleged arrested on 25 June 1994 by military officers in the military zone of Tiaret.
26. The twentieth case concerned Mr. **Cherif Bendarah**, allegedly last seen on 7 March 1994 at Tazoult Prison.
27. The twenty-first case concerned Mr. **Sofiane Damous**, allegedly arrested on 26 December 1996 by the police of Cheraga in Algiers.
28. The twenty-second case concerned Ms. **Djillali Larbi**, allegedly last seen on 14 June 1994 at the Tribunal of Tiaret in a gendarmerie car.

Information from the Government

29. On 21 January 2014, the Government of Algeria responded to a prompt intervention letter, sent jointly with another mandate holder on 18 October 2013, concerning a report that excessive force had been used during a peaceful demonstration by the families of the disappeared, on 29 September 2013. The Government informed the Working Group that the security services had been notified of an unauthorized gathering of 25 persons near the Ministry of Justice headquarters. The demonstrators requested a meeting with the Minister of Justice or a high-level official to voice their complaints. In order to respond to the demonstrators' claims, the Minister agreed to meet a delegation of four representatives; a proposal that was rejected by the demonstrators. After attempts to pacify and disperse the crowd failed, the police were forced to intervene to preserve peace and re-establish order and in that context 10 demonstrators were arrested.
30. On 11 April 2014, the Government of Algeria responded to a general allegation sent by the Working Group, jointly with three other special procedures mechanisms, on 30 December 2013, concerning the alleged discovery of a mass grave near Ras El-Ma, Azzaba in the Wilaya of Skikda.¹ The Government informed the Working Group that initial results indicated that there could be the remains of 28 victims in the mass grave, but that the investigations were in the preliminary phase. The experts would issue a final report, aiming to establish a genetic profile in order to identify the victims. To date, no allegations of disappearance had been reported to the Public Prosecutor of Azzaba and none of the relatives of the disappeared had been in contact with the Public Prosecutor's office. The Government further reported that the General Public Prosecutor of Skikda had received a request from the Constantine branch of the National Coordination of Families of the Disappeared to be kept informed of the results of the investigation and affirming the branch's availability to help identify the victims.
31. The Working Group continued to process the information that had been transmitted by the Government on 5 February 2013 and 29 December 2013 on 2,722 outstanding cases.

¹ The full content of the allegation will be included in the communications report of the special procedures submitted to the Human Rights Council at its twenty-seventh session.

Information concerning 105 outstanding cases was reviewed and was considered insufficient to lead to the clarification of the cases.

Information from sources

32. Sources provided information on 14 outstanding cases. Based on the information received from a source, the Working Group decided to reopen the case of Mr. **Salah Kitouni**, who was arrested by the police in Constantine on 9 July 1996.

Observations

33. The Working Group thanks the Government for its reply to the prompt intervention letter but notes with concern the alleged excessive use of force and arrest of relatives of victims of enforced disappearances participating in peaceful protests. The Working Group would like to recall article 13, paragraph 3, of the Declaration on the Protection of All Persons from Enforced Disappearance (hereinafter “the Declaration”), which provides that “steps shall be taken to ensure that all involved in the investigation [of an enforced disappearance], including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal”. It would also like to recall Human Rights Council resolution 21/4, in which the Council urged States to take steps to provide adequate protection to, among others, human rights defenders acting against enforced disappearance and families of disappeared persons against any intimidation, persecution, reprisals or ill-treatment to which they might be subjected.

34. The Working Group also thanks the Government for the reply to the general allegation, sent on 30 December 2013 jointly with three other special procedure mechanisms, concerning the discovery of a mass grave near Ras El-Ma, Azzaba in the Wilaya of Skikda. The Working Group encourages the Government to continue the investigations, identify the remains and keep the relatives and the Working Group informed of the findings of the investigations. In that respect, the Working Group would like to recall article 13, paragraph 4, of the Declaration, which provides that the findings of investigations into cases of enforced disappearance “shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation”.

Angola

Information from the Government

35. On 1 April 2014, the Government transmitted a communication regarding two outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Bahrain

Urgent action

36. On 11 February 2014, the Working Group, following its urgent action procedure, transmitted one case to the Government of Bahrain, concerning Mr. **Sadiq Jafar Mansoor Al Sheabani**, allegedly arrested on 22 January 2014 by Omani secret police or intelligence forces in Muscat. The same day, he was allegedly handed over to the Criminal Investigation Department of Bahrain. The Government of Oman was provided with a copy of that communication.

37. On 3 March 2014, the Working Group transmitted another case to the Government under its urgent action procedure, concerning Mr. **Mohamed Ramadhan Isa**, allegedly arrested on 18 February 2014 by armed law enforcement personnel of the Criminal Investigation Department in plain clothes.

Information from the Government

38. On 25 February 2014, the Government provided information in relation to four outstanding cases. Based on that information, the Working Group decided at its 103rd session to apply the six-month rule to one case. Regarding the remaining cases, the information provided was not considered sufficient to lead to the clarification of the cases.

39. On 1 October 2013, the Government transmitted a reply to a joint urgent appeal sent on 28 August 2013 concerning allegations, among others, of the disappearance of Mr. **Abas al-Asfoor**. In its reply, the Government indicated that “two individuals confessed that they belonged to a terrorist group planning to disrupt security in the Kingdom. Arrest warrants were issued for the suspects Abbas Ibrahim Ahmed Mohammed Al-Asfoor and another person ... On 24 April 2013, the suspect Abbas Ibrahim Ahmed Mohammed Al-Asfoor was handed over to the public prosecution with the record of the factual findings”.

Information from sources

40. A source provided information on an outstanding case. The case was clarified as a result.

Clarification

41. In the light of the information provided by a source, the Working Group decided to clarify one case.

Bangladesh

Prompt intervention letter

42. On 25 March 2014, the Working Group transmitted, jointly with three other special procedure mechanisms, a prompt intervention letter concerning the situation of Mr. **Adilur Rahman Khan**, his family and his colleagues from Odhikar, as well as the ongoing situation of Odhikar. Mr. Adilur Rahman Khan is the Secretary of Odhikar, a human rights non-governmental organization which reports on cases of enforced disappearance and works with the families of disappeared persons.

Bosnia and Herzegovina

General allegation

43. On 1 April 2014, the Working Group transmitted, jointly with another special procedure mechanism, a general allegation² to the Government concerning the situation surrounding the decision of the Constitutional Court of Bosnia and Herzegovina to order the quashing of the verdicts in the cases of 10 individuals serving prison sentences for war crimes against civilians and genocide.

² The full content of the allegation will be published in the communications report of the special procedures submitted to the Human Rights Council at its twenty-seventh session.

Observations

44. With respect to the general allegation sent on 1 April 2014, concerning the effect of the decision of the Constitutional Court in 2013 to order the quashing of the verdicts in the cases of 10 individuals serving prison sentences for war crimes against civilians and genocide as a result of the automatic application of a European Court of Human Rights decision, the Working Group recalls that enforced disappearance is a continuous crime, which can be punished on the basis of ex post legislation without violating the principle of non-retroactivity, for as long as the fate or the whereabouts of the disappeared person has not been clarified (A/HRC/16/48/Add.1, para. 57; see also the Working Group's general comment on enforced disappearance as a continuous crime, A/HRC/16/48, para. 39).

Cambodia

Urgent action

45. On 2 April 2014, the Working Group, following its urgent action procedure, transmitted one communication concerning two cases to the Government of Cambodia. The communication concerned an individual under the age of 18 at the time of the alleged disappearance, reportedly last seen on 3 January 2014, lying on the ground near the Canadia Industrial area, Veng Sreng Road, Phnom Penh, after being reportedly shot in the chest by Cambodian security forces.

China

Urgent action

46. On 17 March 2014, the Working Group, following its urgent action procedure, transmitted one communication to the Government of China concerning Ms. **Xiaohui Bian**, Ms. **Anxia Meng**, Mr. **Yuhong Liu**, Ms. **Yinghua Chen** and Ms. **Xiuzhen Zhou**, allegedly abducted by the National Security and the Chinese authorities for enquiring about the detention of a relative. Two cases concerning Ms. **Anxia Meng** and Mr. **Yuhong Liu** were later clarified during the session on the basis of the information provided by the sources.

Standard procedure

47. The Working Group transmitted two cases to the Government of China.

48. The first case concerned Mr. **Chongbiao Mi**, allegedly last seen in mid-January 2014 in a hospital in Guiyang City, Guizhou Province.

49. The second case concerned Ms. **Yunhe Zhang**, allegedly last seen in August 2013 at Shandong Female Prison, Xin Zhuang Village, Sun Cun Township, Gao Xin District, Jinan City, Shandong Province, 250110, China.

Information from sources

50. A source provided information on three outstanding cases. Two cases were clarified as a result.

Clarification

51. In the light of the information provided by the sources, the Working Group decided to clarify two cases.

Urgent appeals

52. On 1 April 2014, the Working Group transmitted, jointly with four other special procedure mechanisms, an urgent appeal to the Government concerning the alleged incommunicado detention of Mr. **Zhisheng Gao**.

Press release

53. On 18 March 2014, the Working Group issued, jointly with five other special procedure mechanisms, a press release expressing dismay at the death on 14 March 2014 of the human rights defender Ms. **Shunli Cao**, who suffered reprisals for having tirelessly campaigned since 2008 for transparency and greater participation of civil society in the second universal periodic review of the human rights record of China by the Human Rights Council. In the press release, the special procedure mandate holders urged the Chinese authorities to promptly investigate the circumstances leading to Ms. Cao's death and said it was unacceptable that civil society activists pay the ultimate price for peaceful and legitimate interaction with the United Nations and its human rights mechanisms.³

Observations

54. The Working Group is concerned that, during the period under review, it has been brought to transmit five cases under its urgent action procedure and one urgent appeal and has issued, jointly with other mandates, a press release in relation to the death of Ms. Shunli Cao. The Working Group is also concerned about the case of human rights lawyer **Zhisheng Gao**, who has been repeatedly disappeared since 2006, and has now reportedly been held incommunicado since 12 January 2013. The Working Group is also concerned that the communications transmitted reveal the use of enforced disappearance against political opponents, human rights defenders and religious minorities. The Working Group would like to recall articles 2⁴ and 10⁵ of the Declaration.

Colombia

Standard procedure

55. The Working Group transmitted three cases to the Government of Colombia.

56. The first case concerned Mr. **Vidal Antonio Castro Giraldo**, allegedly abducted on 21 June 2002 by a paramilitary group.

57. The other two cases concerned Mr. **Nicolas Cifuentes Losada** and Ms. **Marisol Virviescas Muñoz**, allegedly abducted on 8 June 2007 by members of the Army and of a paramilitary group.

Information from the Government

58. On 4 March 2014 and 9 April 2014, the Government of Colombia responded to a general allegation sent by the Working Group on 19 December 2013 concerning current cases of enforced disappearance in the country, threats received by relatives of the

³ The full text of the press release is available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14394&LangID=E.

⁴ "No State shall practise, permit or tolerate enforced disappearances" (para. 1).

⁵ "Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned" (para. 2).

disappeared and the lack of proper investigation by the State. The Government, through the Programme on Human Rights and International Humanitarian Law and the National Search Commission, informed the Working Group that several mechanisms had been established in order to fully prevent and investigate enforced disappearances in Colombia, such as the definition of enforced disappearance as an autonomous crime (Law No. 589), the Urgent Search Mechanism, the National Registry of Disappeared Persons, the National Search Plan for Disappeared Persons and the Information System Network for the Disappeared and Corpses. Also, a legal status for relatives of victims of enforced disappearance had been established and regional round tables had taken place.

59. On 14 April 2014, the Government transmitted a communication regarding one outstanding case registered under Ecuador. The information provided was considered insufficient to lead to the clarification of the case.

Democratic People's Republic of Korea

Standard procedure

60. The Working Group transmitted four cases to the Government of the Democratic People's Republic of Korea. In accordance with the methods of work of the Working Group, the Government of the Republic of Korea also received copies of those cases.

61. The first case concerned Mr. **Gye Byeong-yeol**, allegedly abducted from school on 10 August 1950 by the forces of the Democratic People's Republic of Korea.

62. The second case concerned Mr. **Gye Youn-chan**, at the time of the alleged disappearance under the age of 18, allegedly abducted on 10 August 1950 by soldiers from the Democratic People's Republic of Korea from his home in the Republic of Korea.

63. The third case concerned Mr. **Hong Beom-pyo**, allegedly forcibly drafted in July 1950 from the Republic of Korea by the Army of the Democratic People's Republic of Korea.

64. The fourth case concerned Mr. **Kim Ha-jun**, allegedly last seen at Seodaemun Prison, in the Republic of Korea, in the custody of the Army of the Democratic People's Republic of Korea before he was transferred to the Democratic People's Republic of Korea.

Information from the Government

65. On 9 April 2014, the Government transmitted a communication regarding 22 outstanding cases. The information provided was considered insufficient to lead to clarification of the cases.

Information from sources

66. The sources provided information on one outstanding case.

Observations

67. At its 103rd session, the Working Group considered the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea (A/HRC/25/63), which was submitted to the Human Rights Council at its twenty-fifth session, in March 2014. The Working Group expresses grave concern at the findings of the commission that crimes against humanity have been and are being committed in the Democratic People's Republic of Korea. As stated in the report of the commission, those crimes include a wide range of human rights violations, among them enforced disappearance. The Working Group is concerned that such crimes have been committed against persons from other countries

who were systematically abducted or denied repatriation, in order for the Democratic People's Republic of Korea to gain labour and other skills. The Working Group is closely following the situation in the Democratic People's Republic of Korea. The Working Group is increasingly receiving information on the reported systematic abduction and enforced disappearance of persons from other countries since 1950.

68. As highlighted by the Working Group in its general comment on enforced disappearance as a crime against humanity (A/HRC/13/31 and Corr.1, para. 39), when there are claims of practices of enforced disappearance which may amount to crimes against humanity, the Working Group will evaluate these claims and, if appropriate, will refer them to the competent authorities, be they international, regional or domestic. Given the seriousness of the situation, the Working Group decided at the session to express its grave concern in relation to the enforced disappearances in the country by writing to the President of the Human Rights Council, the President of the General Assembly, the President of the Security Council and the Secretary-General, asking for the adoption of any appropriate action that they may deem appropriate. The Working Group informed the Government of the Democratic People's Republic of Korea of the initiative of sending those letters on 12 June 2014.

Democratic Republic of the Congo

Standard procedure

69. The Working Group transmitted one case to the Government of the Democratic Republic of the Congo. The case concerned Mr. **Fabien Kitoy**, allegedly arrested in November 1964 by officers of the Armée Nationale Congolaise. According to the information received, before being allegedly arrested, Mr. Kitoy was reportedly taken into custody by the Ministry of the Interior.

Dominican Republic

Urgent action

70. On 4 April 2014, the Working Group, following its urgent action procedure, transmitted one case to the Government of the Dominican Republic concerning Mr. **Randy Viscaíno González**, allegedly last seen on 13 December 2013 at Los Frailes II police station, in Santo Domingo Este, after being reportedly arrested by officers of the aforementioned police station.

Ecuador

Information from the Government

71. On 14 April 2014, the Government of Ecuador transmitted a communication regarding four outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Egypt

Urgent action

72. The Working Group transmitted three cases to the Government of Egypt under its urgent action procedure.

73. The first two cases were transmitted on 1 April 2014 and concerned Mr. **Omar Ibrahim Al Hussein**, allegedly arrested in the Sharqia governorate by police forces on 27 February 2014, and Mr. **Ahmad El Walied El Shal**, allegedly arrested in Al Manoura, Al Daqahliya, by State security forces on 6 March 2014.

74. The case of Mr. Ahmad El Walied El Shal was later clarified on the basis of the information provided by the source.

75. The third case was transmitted on 14 April 2014 and concerned Mr. **Basem Mohsen Hasan Ali El-Khoriby**, allegedly arrested in Mansoura, Al Daqahliya, on 4 March 2014 by members of the police and the national security.

Information from sources

76. A source provided information on one outstanding case. The case was clarified as a result.

Clarification

77. In the light of the information provided by the source, the Working Group decided to clarify one case.

El Salvador

Information from the Government

78. The Working Group thanks the Government for its response to the prompt intervention letter sent on 29 January 2014 concerning the violent attack on the Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos (Association for Tracing Disappeared Children) and the destruction of information essential to the process of truth, justice and reparation in the country. The Government reported that the State, through the General Prosecutor's Office and the National Civil Police, had documented the declarations of victims and witnesses of that attack, and had taken various steps to investigate the facts and guarantee the security of the personnel and the facilities of the Association.

Observations

79. The Working Group encourages the Government to continue the investigations into that matter.

Gambia

Standard procedure

80. The Working Group transmitted two cases to the Government of the Gambia. The two cases concerned Mr. **Alhaji Mamut Ceesay** and Mr. **Ebou Jobe**, allegedly last seen in November 2014 in Juswang, Banjul, after reportedly having been abducted on 22 June 2013 by the National Intelligence Agency in front of their apartment in Kololi, the Gambia.

Information from the Government

81. On 12 March 2014, the Government transmitted a communication regarding one outstanding case. The information provided was considered insufficient to lead to the clarification of the case.

Guatemala

Prompt intervention letter

82. On 2 May 2014, the Working Group transmitted, jointly with five other special procedure mechanisms, a prompt intervention letter to the Government concerning the sanctions issued by the Court of Honour of the Association of Lawyers and Notaries of Guatemala against Judge Yassmin Barrios.

Information from the Government

83. On 12 March 2014 the Government of Guatemala responded to a general allegation sent by the Working Group on 19 December 2013 concerning the investigation of enforced disappearances during the armed conflict in Guatemala (1962–1996). In its reply, the Government, through the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (COPREDEH), stated that the crime of enforced disappearance was not applicable to the events that had occurred during the internal armed conflict, since it had been included in the Criminal Code only in 1996. Enforced disappearances could thus be considered as illegal detention or kidnapping, subject to a statute of limitations of 20 years.

Observations

84. The Working Group draws the attention of the Government to the fact that enforced disappearance is a continuous crime and that the qualification of any instance of enforced disappearance as not being subject to a statute of limitations is a concrete guarantee against impunity. If statutes of limitations are used, it must be made clear by domestic legislation that those terms shall not start for as long as the fate or whereabouts of the victims remain unclarified.

Information from sources

85. In response to the reply of the Government of Guatemala (see para. 83 above), the source of the general allegation stated that the legislation and jurisprudence in Guatemala had determined the permanent nature of enforced disappearance and that it should be applied to those enforced disappearances that occurred before 1996. Furthermore, the decisions on amnesty or prescription that prevent the investigation and punishment of those responsible for serious human rights violations such as enforced disappearances are inadmissible. Moreover, the source argues that, in practice, the State has not adopted serious and concrete measures to determine the fate and whereabouts of disappeared persons in Guatemala.

Guinea

Standard procedure

86. The Working Group transmitted seven cases to the Government of Guinea. The seven cases concerned Mr. **Abdoul Aziz Diallo**, Ms. **Fatoumata Binta Bah**, Mr. **Karamoko Nouhou Sow**, Mr. **Mamadou Aliou Bah**, Mr. **Soulaymane Sow**, Mr. **Souleymane Diallo** and Mr. **Ismael Soumah**. They were all last seen on 28 September 2012 in the stadium in Dixinn, Conakry, when participating in a protest rally. They reportedly disappeared during the repression of that rally by defence and security forces.

Indonesia

Urgent action

87. On 21 February 2014, the Working Group, following its urgent action procedure, transmitted one case to the Government of Indonesia concerning Mr. **Dede Khairudin**, allegedly abducted from his residence on 28 November 2013 by army personnel.

Iraq

Information from sources

88. The source provided information on seven outstanding cases.

Libya

General allegation

89. The Working Group has received information from credible sources concerning reported obstacles encountered in the implementation of the Declaration in Libya.

90. Specifically, the Working Group has received reports that, after the conflict in the country, mostly in 2011 and 2012, many Tawarghas (a long-standing community of black Libyans) were disappeared and/or were kidnapped. Allegedly, Tawarghas were taken from checkpoints, camps, streets, homes and even hospitals by anti-Gaddafi armed militia who accused them of being supporters of the Gaddafi Government and of having committed war crimes. According to the source, the persons abducted were transferred to detention facilities in Misrata, where they were reportedly subjected to torture and other ill-treatment. Many of the Tawarghas abducted remain missing and unaccounted for.

91. Representatives of the Tawarghan community reportedly estimate that over 1,300 Tawargha detainees are either missing or detained. Many of the Tawarghan detainees are allegedly held in State prisons and in facilities not overseen by the State, without charge or trial. Many of the abductees reported not having been questioned since the moment they were captured. Allegedly, there are also persons below the age of 18 among the detainees and information has been received that at least nine persons below the age of 18 were held for up to 20 months without referral to the prosecution and without family visits in spring 2013.

92. Even though visits to State prisons and unofficial detention centres in Misrata are in principle permitted, relatives of Tawarghas are allegedly very reluctant to visit them owing to a fear of reprisals by Misratan militias.

93. According to the information received, the Local Council of Tawargha has repeatedly requested a list of all Tawarghan detainees from the judicial authorities, but has not received a satisfactory answer so far; many relatives are therefore without any information on the fate or whereabouts of their loved ones since they went missing in 2011.

94. It was also reported that the situation had a serious impact on the economic situation of many Tawargha families, as the person unaccounted for was in many cases their main breadwinner. Furthermore, the relatives of the disappeared were reported to face obstacles when attempting to register with the Ministry for the Affairs of Families of Martyrs and Missing Persons to receive financial assistance, given the lack of death certificates. In January 2013, Tawargha leaders received photographs from undisclosed sources of bodies of Tawarghas who died in unclear circumstances. However, even the 93 families that were

able to identify their loved ones from the photographs remain unable to obtain death certificates, or any clarification of the circumstances of their deaths.

95. In his report to the Security Council on the United Nations Support Mission in Libya (S/2014/131), the Secretary-General notes that the Ministry of Justice estimates that approximately 7,000 people continue to be detained in relation to the 2011 conflict and are awaiting judicial processes (para. 33). Reportedly, those detainees, who include persons below the age of 18, are held mostly by armed brigades over whom the Government does not have effective authority. The law on transitional justice, adopted on 2 December 2013, specifically requires that those detainees be released or handed over to the judiciary within 90 days. According to the Secretary-General's report, that aspect of the law faces challenges in its implementation given the lack of State control of the majority of detention facilities and the absence of a safe environment in which the judiciary can operate (*ibid.*, para. 35).

96. The Working Group understands that it remains to be established whether all of the above-mentioned persons became victims of an enforced disappearance in accordance with the definition of the Declaration. However, the Working Group recalls that it is not possible to rule out that those persons have become the victims of an enforced disappearance, if proper investigations are not conducted.

Mauritania

Standard procedure

97. The Working Group transmitted one case to the Government of Mauritania. The case concerned Mr. **Saya Pepe**, allegedly abducted by officers of the Aleg police and the National Security (Sûreté Nationale) in Aghchorguit, Aleg, on 28 June 1990.

Mexico

Standard procedure

98. The Working Group transmitted one case to the Government of Mexico. The case concerned Mr. **Sergio Salgado Nuñez**, allegedly abducted on 5 October 2009 by officers of the Jalisco Federal Police.

Urgent appeal

99. On 17 April 2014, the Working Group transmitted, jointly with two other special procedure mechanisms, an urgent appeal to the Government concerning the alleged arbitrary detention and enforced disappearance of Mr. **Marco Antonio Valle Cabañas**.

General allegation

100. The Working Group received information from credible sources on obstacles encountered in the implementation of the Declaration in Mexico.

101. It is stated that the Truth Commission of the State of Guerrero, created to investigate enforced disappearances during the "dirty war" (1969–1979), was allegedly facing difficulties in performing its work and in accessing the information contained in the National General Archive, and that its members had allegedly been the victims of harassment.

102. By presidential decree of 27 November 2001, documents handed over to the National General Archive ceased to be undisclosed information and were opened up for

consultation by anybody. The Ministry of the Interior allegedly transferred all such information from the former Federal Security Directorate and the Policy and Social Research Department, which had been were under the aegis of the Centre for Investigation and National Security (CISEN). The information was added to the 2,920 boxes containing background information from the Secretary of the Interior, with data from 1918 until the early 1980s.

103. However, the documentation currently available in the National General Archive was allegedly disorganized and incomplete. The National General Archive had allegedly planned to microfilm all the documentation, but that was never done. Also, the body of documentation of the Federal Security Directorate was not made fully available to the general public.

104. Much of the material of the Federal Security Directorate was allegedly misplaced, with changed numbers or filed in unrelated categories. In addition, the research team of the Truth Commission of the State of Guerrero allegedly did not have access to the vault where sensitive material of the former Office of the Special Prosecutor for Past Social and Political Movements (FEMOSPP) is kept. Access was requested but was allegedly denied.

105. Members of the Truth Commission of the State of Guerrero were reportedly not able to find many of the files cited by the National Human Rights Commission regarding the “dirty war”. Some reports from agents and public servants kept in the files had allegedly been lost, destroyed or concealed. Also, the numbering had disappeared from the records or had reportedly been cut, off or the records had been reclassified.

106. The mandate of the Truth Commission of the State of Guerrero expired on 17 April 2014. However, it was agreed to extend its mandate for six months; its final report would be submitted no later than 17 October 2014. To date, the State of Guerrero allegedly had not granted the budget for the extension of the mandate. The Guerrero State Congress reportedly affirmed that it was the State Government which should contribute to the budget. The State Government had not yet responded on the issue.

107. That issue would particularly affect the excavations to find remains. There was uncertainty about which state and federal authorities should be responsible for authorizing and carrying out excavations to exhume bodies in the State of Guerrero. Furthermore, the area to be excavated needed to be protected before the arrival of the rainy season and hurricanes.

108. The former Office of the Special Prosecutor for Past Social and Political Movements and the then General Coordination Office for Research of the General Prosecutor allegedly accepted the complaints of survivors of disappearance, but then allegedly informed them that the crime of abuse of authority was subject to prescription. In a hearing before the Inter-American Commission on Human Rights, the Mexican State reportedly opened up the possibility of offering compensation in cases not verified by the National Human Rights Commission.

109. The source indicated that several members and staff of the Truth Commission of the State of Guerrero had allegedly received threats or had been the subject of attacks between January and March 2014, including persecution, threatening phone calls and robbery. Such incidents had allegedly not been properly investigated.

Morocco

Standard procedure

110. The Working Group transmitted seven cases to the Government of Morocco.

111. The first case concerned Mr. **Yahdih Boutabaa**, allegedly abducted by officers of the intelligence service in El Aaiún on 28 September 2008.

112. The second case concerned Ms. **Fatimatou Djimi**, allegedly last seen at a Mobile Intervention Company barracks in El Aaiún on 9 April 1984.

113. The third case concerned Mr. **Moulay Abba El Gasmí**, allegedly abducted by officers of the Royal Moroccan Armed Forces in Jdairia in 1978.

114. The fourth case concerned Mr. **Lhafed El Qotb**, allegedly last seen at the PCCMI detention centre in El Aaiun in December 1992.

115. The fifth case concerned Mr. **Farachi Mohamed Salem Bueieh Barka**, allegedly last seen in a military barracks in El Aaiun in 1976. A copy of the two cases was sent to the Government of Spain.

116. The sixth case concerned Ms. **Souad Gharhi**, allegedly last seen at the Avenue Driss Premier, Elhay Hajari quarter, in El Aaiun, in October 2009.

117. The seventh case concerned Mr. **Haj Layachi Ben Abdeselam Ouaddi**, allegedly abducted by members of the National Liberation Army in Tiznit on 21 May 1956.

Information from the Government

118. On 9 July 2012, the Government of Morocco transmitted a communication regarding 15 outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

119. On 20 February 2014, the Government of Morocco transmitted a reply to a general allegation letter sent on 20 December 2014 on the discovery of eight human bodies in Fadret Leguiaa in the region of Samra, an area under the supervision of the United Nations Mission for the Referendum in Western Sahara). In its reply, the Government indicated that the Equity and Reconciliation Authority had investigated the cases of alleged disappearance but had not been able to clarify them during the term of its mandate (7 January 2004–30 November 2005). Therefore, the cases were handed over to a follow-up committee created in 2006 by the Human Rights Advisory Council. The Government of Morocco further reported that it still lacked access to the full information of the forensic team and maintained that the diverse and contradictory witness statements did not provide sufficient grounds to confirm the allegation of arrest and extrajudicial execution, as reported by the source of the general allegation.

Information from sources

120. Sources provided information on one outstanding case. The case was clarified as a result.

121. In response to the reply of the Government of Morocco (see para. 119 above), the source of the general allegation informed the Working Group that the forensic team had kept the Government abreast of its findings. A copy of the team's report providing anthropological forensic findings, results of the DNA tests, as well as testimonies of the relatives of the victims was sent to the Human Rights Advisory Council in September 2013. The source further reported that the identity as well as the cause of death of the victims was established, following the highest standards of research, by a team of highly qualified professionals with considerable international experience.

Clarification

122. Following the information provided by the source, the Working Group decided to clarify one case.

Observations

123. The Working Group would like to thank the Government for the reply of 20 February 2014 to the general allegation transmitted by the Working Group after its 101st session concerning the discovery of the remains of eight persons who had presumably been buried in a mass grave in Fadret Leguiaa. In that respect, the Working Group would like to emphasize that the families of victims have a right to the truth, as delineated in its general comment on the right to the truth in relation to enforced disappearance (A/HRC/16/48, para. 39), as well as emphasizing the importance of a full and independent investigation into allegations of enforced disappearances.

Pakistan**Urgent action**

124. On 9 April 2014, the Working Group, following its urgent action procedure, transmitted one communication containing 18 cases to the Government of Pakistan. The cases concerned 18 members of the Mohajir Quami Movement, namely, Messrs. **Ameer Ahmad Nizami Syed, Jawaid Akhtar Meo Muhammad, Mahboob Munir Hassan, Qasim Ali Syed, Farhan Muhammad, Sagheer Mahmood, Karim Uddin Syed, Zubair Ahmad, Ali Muhammad, Naeem Muhammad, Arif Hussain Nizami, Irshad Qureshi, Ateequr Rehman Mewati, Usman Ali, Gul Zeeshan Baloch, Saeed Muhammad, Farooq Ahmad and Arshad Abbasi**, allegedly abducted in and held since March 2013 by individuals believed to belong to law enforcement agencies of Pakistan.

Prompt intervention letter

125. On 3 April 2014, the Working Group transmitted, jointly with five other special procedure mechanisms, a prompt intervention letter concerning the situation of Mr. **Nasrullah Baloch** and his family. Mr. Nasrullah Baloch is the Chairman of Voice for Baloch Missing Persons, a non-governmental organization which was founded in 2009 by the families of victims of enforced disappearances. The organization voices concerns on behalf of the families of disappeared persons and campaigns for their safe return.

Information from the Government

126. On 23 January 2014, the Government of Pakistan transmitted a communication requesting information on two outstanding cases.

127. On 23 April 2014, the Government of Pakistan transmitted another communication regarding four outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Information from sources

128. A source provided information on one outstanding case.

Peru**Information from sources**

129. A source provided information on one outstanding case.

Information from the Government

130. On 1 April 2014, the Government of Peru transmitted a communication regarding 16 outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Russian Federation

Urgent appeals

131. On 7 March 2014, the Working Group transmitted, jointly with four other special procedure mechanisms, an urgent appeal to the Government of the Russian Federation concerning Mr. **Evgeny Vitishko**, allegedly transferred from pretrial detention centre No. 1 in the Krasnodar region to an unknown location in the Tambov region and last seen on 21 February 2014, when he was visited by his lawyer.

South Africa

Standard procedure

132. The Working Group transmitted one case to the Government of South Africa. The case concerned Ms. **Nokulthula Aurelia Simelane**, allegedly last seen in December 1983 in the boot of a vehicle close to the four-way stop of the Fochville/Carletonville and Johannesburg/Potchefstroom Roads, Johannesburg. The Security Branch of the South African Security Police and the Soweto Police Force were reportedly responsible for her disappearance.

Spain

Standard procedure

133. The Working Group transmitted one case to the Government of Spain. The case concerned Mr. **José Miguel Etxebarria Alvarez**, “Naparra”, allegedly abducted on 11 June 1980 by members of the Spanish Basque Battalion. In accordance with the methods of work of the Working Group, the Government of France also received a copy of the case.

Information from sources

134. Sources provided information on two outstanding cases.

General allegation

135. On 1 April 2014, the Working Group transmitted, jointly with other special procedure mechanisms, a general allegation⁶ to the Government concerning the change in Organic Law No. 6 /1985 on the Judiciary related to universal jurisdiction. That change in the law would restrict the applicability of the universal jurisdiction principle by the Spanish tribunals and would limit the capacity of Spanish judges to investigate and prosecute serious crimes under international law.

⁶ The full content of the allegation will be included in the communications report of the special procedures submitted to the Human Rights Council at its twenty-seventh session.

Sri Lanka

Standard procedure

136. The Working Group transmitted 17 cases to the Government of Sri Lanka.

137. The first case concerned Mr. **Thivagaren Arumugam**, allegedly last seen in March 2009 in Mullivaikal (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka, which was under government control.

138. The second case concerned Mr. **Athiththan Balakrishnan**, allegedly last seen on 26 June 2008 at Sirattikulam, Mannar, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for his alleged disappearance.

139. The third case concerned Mr. **Ratnam Ketheeswaran**, allegedly last seen on 18 May 2009 in the army-controlled area of Vadduvan, Mullaitivu District, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for his alleged disappearance.

140. The fourth case concerned Mr. **Ketheeswaran Makenthiran**, allegedly last seen on 16 April 2009 in Mullivaikal (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka, which was under government control.

141. The fifth case concerned Mr. **Kandaih Mathyvathanakumar**, allegedly last seen on 18 May 2009 in Vattuvagal (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka, when he allegedly surrendered to the Sri Lankan Army.

142. The sixth case concerned Ms. **Karthika Muneeshwaran**, allegedly last seen in April 2009 at the Omanthai military check point, Vavuniya District, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for her alleged disappearance.

143. The seventh case concerned Mr. **Manokumar Murugesu**, allegedly last seen on 10 May 2009 in Mullivaikal (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka, which was under government control.

144. The eighth case concerned Mr. **Nirojan Naventhiran**, allegedly last seen on 21 March 2009 in Mullivaikal (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka, which was under government control.

145. The ninth case concerned Mr. **Mayooran Pannerchelvam**, allegedly last seen on 15 January 2009 in the army-controlled area in Mannakulam, Mullaitivu District, Northern Province, Sri Lanka, when he reportedly surrendered to the Sri Lanka Army.

146. The tenth case concerned Ms. **Kanthimathy Rangasamy**, allegedly last seen on 21 March 2009 in Mathalan, Mullaitivu District, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for her alleged disappearance.

147. The eleventh case concerned Mr. **Sinnathurai Ratheeswaran**, allegedly last seen on 20 April 2009 in Puthumathalan (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka. According to the information received, he may have been taken by the Sri Lankan Army.

148. The twelfth case concerned Ms. **Tharshika Ravichchanthiran**, allegedly last seen on 4 March 2009 at Erattai Vaikkal, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for her alleged disappearance.

149. The thirteenth case concerned Ms. **Sathasivam Sathanthini**, allegedly last seen on 10 May 2009 in Mullaitivu District, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for her alleged disappearance.

150. The fourteenth case concerned Mr. **Pakeerathan Seevaratnam**, allegedly last seen on 15 May 2009 in Vattuvagal (a “no-fire zone”), Mullaitivu District, Northern Province, Sri Lanka, which was under government control.

151. The fifteenth case concerned Mr. **Iyampillai Shivapalan**, allegedly last seen on 16 May 2009 in the army-controlled area of Vattuvan, Mullaitivu District, Northern Province, Sri Lanka.

152. The sixteenth case concerned Mr. **Sujeevaraj Thangavel**, allegedly last seen on 12 February 2009 at Kombavil, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for his alleged disappearance.

153. The seventeenth case concerned Mr. **Vijayakanthan Tharmakulasingam**, allegedly last seen in February 2009 at Vaddakkachchi, Kilinochi District, Northern Province, Sri Lanka. According to the information received, the Sri Lankan Army may be responsible for his alleged disappearance.

Prompt intervention letter

154. On 10 February 2014, the Working Group transmitted, jointly with four other special procedure mechanisms, a prompt intervention letter concerning the alleged acts of intimidation and reprisals, including death threats against Messrs. **Selvakumar Krishnapillai**, **Sanjewa Sampath Jayawardena Mudyanselage** and **Jude Besil Sosai Anthirai** and Ms. **Sanja Sandanadas**, human rights defenders working with the National Fisheries Solidarity Movement, including, in some instances, working in connection with the visit of the United Nations High Commissioner for Human Rights to Sri Lanka in August 2013.

155. On 20 March 2014, the Working Group transmitted, jointly with five other special procedure mechanisms, a prompt intervention letter concerning the situation of Ms. **Balendran Jayakumari**, a human rights activist working on the issue of enforced disappearances in Sri Lanka, and her 13-year-old daughter, Mr. **Ruki Fernando**, a former staff member of the Asian Forum for Human Rights and Development and prominent local human rights defender who has focused on issues pertaining to the situation of defenders in the country, freedom of expression, enforced disappearance, land-grabbing and forcible displacement, and Mr. **Praveen Omi**, former Director of the Centre for Peace and Reconciliation, who works on the protection of defenders and conflict resolution and humanitarian relief for internally displaced persons.

Information from the Government

156. On 24 and 27 December 2013 and 14 February 2014, the Government of Sri Lanka transmitted communications regarding 478 outstanding cases. On the basis of the information provided by the Government, the Working Group decided, at its 103rd session, to apply the six-month rule to one case. With regard to the remaining cases, the information provided was considered insufficient to lead to the clarification of the cases.

157. On 1 March 2014, the Government of Sri Lanka transmitted a reply to the general allegation letter sent on 14 February 2014 regarding the problems encountered by the Presidential Commission on Disappearances that was set up to cover disappearances in the Northern and Eastern Provinces of Sri Lanka between 1990 and 2009 (see A/HRC/WGEID/102/1, paras. 127–138). In its reply, the Government indicated that:

The Commission on Disappearances was appointed on 12.8.2013 for a fixed term of six months, ... The Commission ... had requested for an extension to its mandate and has been granted a further six months until August 12, 2014 ... It is not correct that only a select number was invited to appear before the Commission ... Each and every complainant is granted the opportunity to be heard ... as and when public hearings are held ... The Commission's mandate to investigate allegations of disappearances that took place in the Northern and Eastern Provinces is due to the fact that such allegations are in greater number in these provinces ... The few cases ... in other provinces can be more speedily addressed through the normal course of law ... The Commission has conducted an extensive publicity campaign and provides details on a regular basis on how and when complaints can be submitted to the Commission ... All documentation is available in Tamil, Sinhala and English ... However, a number of people ... did not come with a written representation ... The complaints were temporarily recorded in English language forms by Tamil speaking officers, but the complaints will be furnished with Tamil language forms ... The Commission does not adopt any selection criteria to invite persons before the Commission ... Persons are called ... in order that the information in their complaints is translated into English, analyzed and entered into a computerized database. The Commission had received nearly 16,000 complaints, of which approximately 6000 information forms have been translated ... All Commission hearings are open to public ... The Commission does not accept that there has been any inaccurate interpretation of service ... The Commission denies that there had been any instances where interpreters had engaged in arguing with the complainants or exhibited excessive aggression ... The Commission does not accept that questioning was consistently on LTTE where it was not warranted ... No military or security forces personnel were involved in undertaking Commission's work ... The Attorney General does not play a specific role in the proceedings. Officers who are nominated by the Attorney General do not represent the Attorney General but work as Counsel Assisting the Commission ... A mechanism can be formulated to receive outstanding cases from the UN Working Group, if they fall within the scope of the Commission.

Information from sources

158. A source provided information on one outstanding case.

Clarification

159. On the basis of information provided by the Government, the Working Group decided to clarify one outstanding case following the expiration of the period prescribed by the six-month rule.

Duplication

160. On the basis of information provided by the Government, Working Group also decided to consider one case as a duplicate of an existing case. The duplicate was subsequently expunged from the Working Group's records.

Observations

161. The Working Group thanks the Government for its response to the general allegation sent on the process and methodology of the Presidential Commission on Enforced Disappearances and hopes that the challenges identified are addressed in a way that secures the right to truth and justice.

162. The Working Group appreciates the replies on a great number of cases from the Government of Sri Lanka and hopes that a visit can help to clarify and determine the fate and whereabouts of the subjects of the 5,733 cases before it.

163. The Working Group notes with concern that it has transmitted two prompt intervention letters during the reporting period concerning the alleged intimidation of and reprisals against human rights defenders who work on the issue of enforced disappearance. The Working Group recalls paragraph 3 of article 13 of the Declaration, which provides that “steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal”.

Syrian Arab Republic

Urgent action

164. On 21 March 2014, the Working Group, following its urgent action procedure, transmitted one case to the Government of the Syrian Arab Republic, concerning Ms. **Maryam Haid**, allegedly arrested on 18 January 2014 by members of the Syrian criminal security forces in Damascus.

Standard procedure

165. The Working Group transmitted 10 cases to the Government of the Syrian Arab Republic.

166. The first eight cases concerned Mr. **Abdul Rahman Yasin**, Ms. **Rania Al Abbasi**, and their six children, all under the age of 18, allegedly last seen in December 2013 at the Military Intelligence’s Branch 215 in Damascus.

167. The other two cases concerned Messrs. **Fadi** and **Osama Doko**, allegedly arrested on 25 August 2012 by officers of the Air Force security forces at their residence in Daraya, Damascus governorate.

Information from the Government

168. On 31 March 2014, the Government of the Syrian Arab Republic transmitted a communication regarding nine outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

169. On 31 March 2014, the Government of the Syrian Arab Republic transmitted a reply to a joint urgent appeal sent on 22 January 2014, concerning allegations of the arbitrary detention and disappearance of Mr. **Akram Raslan**. In its reply, the Government indicated that Mr. Raslan “was arrested for publishing cartoons offending the state’s prestige and he is still under investigation by the competent authority”.

Information from sources

170. A source provided information on four outstanding cases.

Press release

171. On 20 March 2014, the Working Group issued a press release calling for action by the highest United Nations bodies to tackle disappearances in the Syrian Arab Republic. Relying on the findings of the independent international commission of inquiry on the Syrian Arab Republic, the Working Group observed that enforced disappearances were being perpetrated as a systematic and widespread attack on civilians, and thus qualified as a

crime against humanity. The Working Group also expressed deep concern that opposition forces had resorted to similar practices against civilians. In the light of its serious concern and the gravity of the situation, the Working Group requested the Security Council to consider referring the matter to the International Criminal Court and called on the Human Rights Council, the General Assembly, the Secretary-General and the Joint Special Representative of the United Nations and the League of Arab States for Syria to take action by means of their respective bodies and mandates.⁷

Observation

172. The Working Group remains very concerned about the widespread use of enforced disappearance as tactic of war and reminds the Government of its obligations to prevent and eradicate enforced disappearance and that as provided in article 7 of the Declaration, “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances”.

Tajikistan

Clarification

173. On the basis of information provided by the Government, the Working Group decided to clarify one outstanding case following the expiration of the period prescribed by the six-month rule.

Thailand

Urgent action

174. On 24 April 2014, the Working Group, following its urgent action procedure, transmitted one case to the Government of Thailand, concerning Mr. **Por La Gee Rak-Jong-Chareon**, allegedly arrested on 17 April 2014 by officers of Kaeng Krachan National Park at a checkpoint in the park.

Information from sources

175. The sources provided information on one outstanding case.

Press release

176. On 11 March 2014, the Working Group issued, jointly with four other special procedure mechanisms, a press release in which it called on the Government of Thailand to establish the truth and hold criminally responsible the perpetrators of the disappearance of human rights defender Somchai Neelaphaijit. Ten years after the disappearance, his fate and whereabouts remained unknown. In the press release, the experts stressed that the Government of Thailand should continue the investigation on the case, establish his fate and whereabouts, guarantee impartiality during the process and publish the results of the investigation.⁸

⁷ The full text of the press release is available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14410&LangID=E.

⁸ The full text of the press release is available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14353&LangID=E.

Turkey

Information from the Government

177. On 14, 16 and 17 April 2014, the Government of Turkey transmitted communications regarding six outstanding cases. On the basis of the information provided by the Government, the Working Group decided, at its 103rd session, to apply the six-month rule to one case. With regard to the remaining cases, the information provided was considered insufficient to lead to the clarification of the cases.

Ukraine

Information from the Government

178. On 7 February 2014, the Government of Ukraine transmitted a communication regarding four outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Urgent appeals

179. On 20 February 2014, the Working Group transmitted, jointly with six other special procedure mechanisms, an urgent appeal to the Government concerning the alleged enforced disappearance of Messrs. **Anatoliy Shynkaruk, Volodymyr Pryydun, Lybomyr Hurmak, Igor Lutsenko, Yury Verbytsky, Andriy Karbyshev, Danylo Lobintsev, Sergey Oleksandrovytsch Bilitsa, Vladim Golyunko, Evgen Vasylievitsch Gornichar, Miron Gorodinsky, Ivan Doloban, Roman Sergeyevitsch Ivanov, Volodimir Ivanovitch Kopeychuk, Mikola Mikitin, Yosif Mirinov, Ivan Mikhailovitch Pasitchnyak, Maksim Polyakov, Andriy Vasilyovitch Potapov, Mikola Sergiyovitch Privert, Vadim Borisovitch Protsko, Oleksey Sergiyovitch Solovyov, Dmitro Anatolyovitch Tkach, Roman Tkatchuk Oleksyy Trofimov and Oleksandr Polikarpovitch Shadchiev, Ms. Inna Grygoryan** and an unidentified woman, allegedly disappeared in the context of Euromaidan (or “Independence Square”) protests, which have been ongoing in Kiev and other parts of Ukraine since November 2013.

Observations

180. The Working Group is concerned about the deteriorating situation in Ukraine, which may facilitate the occurrence of enforced disappearance. It reiterates article 7 of the Declaration which provides that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

United Arab Emirates

Urgent action

181. The Working Group transmitted five cases under its urgent action procedure.

182. On 17 February 2014, the Working Group transmitted the first case to the Government of the United Arab Emirates, concerning Mr. **Jamal Hassan Rashed Al-Hosni**, allegedly arrested on 24 November 2013 in Abu Dhabi.

183. On 24 March 2014, the Working Group transmitted another concerning Mr. **Osama Al Najjar**, allegedly arrested on 17 March 2014 by members of the State Security Services in Ajman.

184. On 7 May 2014, the Working Group transmitted two cases concerning Mr. **Ahmed Mossad Elmaadawi Mohamed**, allegedly arrested on 13 January 2014 at Abu Dhabi airport by officers of the Intelligence Service; and his father-in-law, Mr. **Abdul Rahim Mohamed Yousef Nour Al Din**, allegedly arrested on 13 February 2014 by police officers. In accordance with the methods of work of the Working Group, the Government of Egypt was also provided with a copy of the communication.

185. On 12 May 2014, the Working Group transmitted the fifth case, concerning Mr. **Ahmed Mohamed Abderrahmane Al-Moula**, who was arrested on 1 May 2014 by the Police in Dubai.

Standard procedure

186. The Working Group transmitted two cases to the Government of the United Arab Emirates under its standard procedure.

187. The first case concerned Mr. **Mohamed Salim Rashid Majid Alzamar Al Ali**, allegedly arrested on 5 December 2012 by officers of the State Security Investigations Service, the police of Sharjah and the police of Abu Dhabi, and the Security Forces seventh division in the province of Al Sharjah.

188. The second case concerned Mr. **Jamal Muhammad Abdullah Al Hammadi**, allegedly arrested on 5 February 2014 by State Security agents on 20 April 2013 and reportedly last seen in the State Security Prison in Abu Dhabi.

Urgent appeals

189. On 12 May 2014, the Working Group transmitted, jointly with the Working Group on Arbitrary Detention, an urgent appeal to the Government concerning the alleged arbitrary detention and disappearance of Mr. **Bader Hussain al-Abdulla al-Bahri**.

Information from the Government

190. On 27 February 2014, the Government transmitted a reply to a joint urgent appeal, sent on 30 December 2013, concerning, among others, allegations of the disappearance of Mr. **Abdulrahman al-Jaidah**. In its reply, the Government indicated that “the alleged facts upon which the letter is based are inaccurate ... Mr. Al-Jaidah was arrested on 23 December 2013 for communicating and cooperating with an unlawful and secret organization which is aimed at undermining the Constitution and system of governance of the United Arab Emirates, and overthrowing the Government. Mr. al-Jaidah was arrested on the basis of a legal arrest warrant, which was shown to him prior to his arrest, and the reasons for his arrest were explained to him at the time of arrest. On 24 December 2013 ... as he was a non-national, Mr. al-Jaidah was deported to his country of nationality on the grounds that he represented a threat to national security.”

Information from sources

191. Sources provided information on 15 outstanding cases. The cases were all clarified as a result.

Clarification

192. In the light of the information provided by the sources, the Working Group decided to clarify 15 outstanding cases.

Observation

193. The Working Group is concerned about the number of reported cases of enforced disappearance, especially the pattern of short-term disappearances, and reminds the Government of its obligations to prevent and eradicate enforced disappearance and that, as provided in article 7 of the Declaration, “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances”.

Uruguay

Information from the Government

194. On 7 February 2014, the Government transmitted a communication regarding 19 outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Information from sources

195. A source provided information on two outstanding cases.

Uzbekistan

Information from the Government

196. On 31 January 2014, the Government of Uzbekistan transmitted a communication regarding seven outstanding cases. The information provided was considered insufficient to lead to the clarification of the cases.

Yemen

Urgent action

197. The Working Group transmitted two cases to the Government of Yemen under its urgent action procedure.

198. On 9 April 2014, the Working Group transmitted one case to the Government of Yemen, concerning Mr. **Muhammad Ahmad Naji Obayd Al Haribi**, who was allegedly arrested on 27 March 2014 by members of the security forces.

199. On 14 May 2014, the Working Group transmitted another case concerning Mr. **Sharif Y. Mobley**, a national of the United States of America, allegedly last seen on 22 March 2014 in Central Prison in Sana’a. A copy of the communication was sent to the Government of the United States of America.

Information from sources

200. The sources provided information on one outstanding case.

Information from the Government

201. On 6 May 2014, the Government of Yemen transmitted a communication regarding one outstanding case. The information provided was considered insufficient to lead to the clarification of the case.

Annex

[English only]

Response from the Government of Sri Lanka to the general allegation from the Working Group on Enforced or Involuntary Disappearances on the implementation of the Presidential Commission on Disappearances

(1) Whether the facts reported in the allegation are accurate. If not, what are the true facts?

Responses to the facts contained in the allegation are stated below from (a) to (p):

- (a) *Para 3: Duration of the Commission is far too short to undertake a comprehensive inquiry as demonstrated by the fact that hearings of the Commission began 5 months after its establishment, and only a select number has been invited to appear before the Commission.*

The Commission on Disappearances was appointed on 12.08.2013 for a term of six months to conduct inquiries and investigations as necessary, and to submit a report containing its findings and recommendations. As a general practice, Presidential Commissions of Inquiry are mandated for a period of three or six months to complete its work, but this period has been extended whenever a request was made to the President by the Commission. In the present instance too, the Commission on Disappearances had requested for an extension to its mandate and has been granted a further six months until August 12, 2014 in order for it to undertake a comprehensive inquiry and to complete its work.

The hearings of the Commission commenced in January 2014, following two extensions granted to the public to make submissions (i.e. deadline on 31.10.2013 extended to 30.11.2013 and 31.12.2013). The extensions were granted, both to accommodate the large number of complaints received on a daily basis, and in response to a request made by persons in the North and East.

It is not correct that only a select number was invited to appear before the Commission. Complainants are invited to public hearings once the information in their complaints are processed, entered into a computerized database and analysed by the Commission staff. Subsequent to this process, each and every complainant is granted the opportunity to be heard by the Commission as and when public hearings are held.

- (b) *Para 4: Commission will only cover disappearances in Northern & Eastern Provinces between 1990-2009, and disappearances in other parts of the country will not fall within its scope:*

The Commission's mandate to investigate allegations of disappearances that took place in the Northern and Eastern Provinces is due to the fact that such allegations are in greater number in these provinces, and therefore, the normal procedure of law cannot be expected to address these matters within a reasonable period of time. The few cases of persons alleged to be missing in other provinces can be more speedily addressed through the normal course of law.

The Commission has, however, accepted complaints that are outside its geographical mandate, and will take special interest in referring such matters to the Attorney General for further action, and concurrently take steps to monitor the action taken.

- (c) *Para 5: Inadequate public information campaign resulting in many people not hearing about the Commission or being provided information on where, when and how to submit complaints:*

The Commission had, and continues to provide wide publicity on how a person or an organization can submit their complaints to the Commission. This has been done through Public Notices published in all local newspapers in Northern and Eastern Provinces and in all national newspapers in all three languages. The Notices calling for complaints, and the extension of the deadline, were published in newspapers during October, November and December, 2013. Further, six news conferences were held with major media organizations, and individual press interviews were granted to six prominent media organizations by the Chairman of the Commission during the past 06 months highlighting the scope and nature of the Commission's activities and how the Commission intends to proceed with its work. The Secretary to the Commission also held comprehensive briefings with key personnel in the district and divisional administration in Northern and Eastern Provinces, including all District Secretaries, Divisional Secretaries and Grama Niladharis, on the procedures for submission of complaints and public hearings.

It is testimony to the effectiveness of the publicity campaign conducted by the Commission that a considerable number of persons who had not submitted their complaints on time came before the public hearings in Jaffna and Kilinochchi districts to make representations. Although the deadline for submission of complaints had lapsed, the Commission, on humane grounds, had decided not to consider the adherence to the deadline as a mandatory requirement, and undertook to register all such complainants as "new registrations". These complainants too are to be heard by the Commission, and they will be notified to appear at the next round of inquiry.

- (d) *Para 5: Confusion amongst families of disappeared about how to submit a complaint, who will appear before the Commission, when and where there will be held.*

The Notices published by the Commission in the newspapers provided details of how to submit a complaint. Procedures with regard to the preparation and submission of complaints have also been comprehensively explained by the Commission to staff of District Secretariats, Divisional Secretariats and Grama Niladharis to be conveyed to the public. Every complaint is acknowledged by letter and a reference number is issued to the complainant if he or she wishes to make a further inquiry into the status of the complaint. Dates and venues of public hearings are informed well in advance to the public through notices displayed in public places in the relevant Grama Niladhari Divisions, Divisional Secretariats, District Secretariats and in the media. Persons who submitted complaints are informed of public hearings by letter or by telephone, if available.

- (e) *Para 5: Military and plain-clothed security people have been registering people.*

Registration of complainants is carried out by staff of the Commission and local staff of the District Secretariat. At no point have any military or plain clothed security personnel been involved in registering complainants, or carrying out any work undertaken by the Commission.

- (f) *Para 5: People asked to sign forms in English which they could not read or understand.*

During public hearings in Kilinochchi and Jaffna, inquiries were to be held into complaints sent by post in response to Notices published. However, a number of people who called

over at these hearings did not come with a written representation or communication. The Commission, without turning them away, adopted a procedure to ensure their grievances are also addressed effectively. Commission officials interviewed them, obtained necessary information and filled up the working document of the Commission called a “data capture form”. Due to limited staff resources, the complaints were temporarily recorded in English language forms by Tamil speaking officers, but the complainants will be furnished with Tamil language forms before they are called to appear before the Commission for a hearing.

- (g) *Para 5: Very few people who submitted complaints received letters to appear before the Commission, and the criteria for selection is unclear and not publicly available.*

Persons are called before the Commission for a hearing in the order that the information in their complaints is translated into English, analysed and entered into a computerized database. The Commission had received nearly 16,000 complaints, of which approximately 6,000 information forms have been translated and computerized to date. With regard to these completed 6,000 entries, the Commission has scheduled them on the basis of District and Grama Niladhari Division to inquire into when the Commission visits such areas. The balance complaints are being processed and the complainants will be informed by letter in due course to appear before the Commission.

The Commission does not adopt any selection criteria to invite persons before the Commission other than the process mentioned above.

- (h) *Para 6: In order to be a credible process, the Commission must hear all those who have complained, and not take a sampling of cases, regardless of time required to register and hear all complaints.*

The Commission is mandated to inquire into each and every complaint in detail, hence it does not subject itself to a time limit to complete the inquiries. The Commission is confident that any extension of time period in order to complete its work in a comprehensive manner will be granted upon request.

- (i) *Para 7: Some of the Commission’s hearings are held in public and others were closed.*

All Commission hearings are open to public and the public has always been facilitated full access to hearings. On no occasion had hearings been held behind closed doors, although if a complainant requests to give evidence in camera, the Commission provides facilities to do so. On one occasion when space was constrained in the venue where hearings were scheduled, the Commission had to conduct its hearings in a cubicle, which was enclosed by clear glass panes. Even on this occasion, public and journalists were accommodated within the confined space and proceedings were relayed outside the cubicle via speakers, thus ensuring transparency in the process.

- (j) *Para 8: Inadequate number of Interpreters and inaccurate interpretation*

Experienced interpreters who had previously served in the Parliament of Sri Lanka and in several Commissions of Inquiry, including the Lessons Learnt and Reconciliation Commission, have been employed by the Commission. The Commission finds that they fulfill the Commission’s requirements, both in terms of numbers and in the quality of service.

The Commission does not accept that there has been any inaccurate interpretation or reporting.

- (k) *Para 8: Interpreters argued with people’s accounts of what had occurred and exhibited excessive aggression when engaging complainants.*

Complainants have to be heard in a methodical manner for purposes of accuracy for assessment of complaint. At the first instance, the Commission records the submission by questioning, and thereafter requests the complainant to speak openly. Complainants are also widely questioned on the missing person's dependents, their livelihood and source of income for purposes of reparation. The entire proceedings are tape recorded by the Commission for subsequent scrutiny. The Commission denies that there had been any instances where interpreters had engaged in arguing with the complainants or exhibited excessive aggression.

- (l) *Para 8: Focus of questioning was consistently on LTTE, resulting in inadequate attention to other aspects of testimony.*

The nature of allegations of disappearances and the perpetrators involved vary from complaint to complaint and according to geographical areas. Questions are asked in a methodical manner solely to arrive at an accurate assessment of the complaints. The Commission does not accept that questioning was consistently on LTTE where it was not warranted. The hearings are also tape recorded.

- (m) *Para 8: Some officials tasked with gathering information and completing the forms of complainants did not speak Tamil, and the forms were in English.*

Fifteen Tamil speaking officers were provided by each District Secretariat to gather information and to complete the forms of complainants. During public hearings, the Commission had to face a situation where new complainants came in large numbers to make representations. As the Commission had to proceed with pre-arranged hearings of registered complainants, it adopted temporary measures to register new complainants so that their representations will be inquired into at a later date. In such instances, the registrations were recorded in English language forms. However, the Commission will be providing each newly registered complainant a form in Tamil language to fill and return prior to being invited for public hearings.

- (n) *Para 9: There should be a comprehensive publicity campaign in advance of scheduled hearings. Provincial and National level disseminations need to be carried out.*

Please see (c) above.

- (o) *Para 9: Process should be established to prepare families to appear before the Commission, including providing information on documentation to be submitted with their complaints.*

The relevant information is contained in the letters sent to all complainants inviting them to be present at the hearings. In addition, Grama Niladharis and officials at the Divisional and District Secretariats are knowledgeable about the requirements in this process, and are at the disposal of the public to obtain any assistance in this regard.

- (p) *Para 11: Military and Security personnel should not be involved in publicity campaign, registration, signing of forms, escorting people to and from hearings, taking photographs outside the Commission as people enter, or be present while people were presenting testimonies.*

No military or security forces personnel were involved in undertaking Commission work, including carrying out public information campaigns, registration, signing of forms, or been present while people were presenting testimonies to the Commission. The Commission has also not received any complaints that military personnel were escorting people to and from hearings or taking photographs outside the Commission as people enter. Photographs had been taken by independent media organisations.

The only instance when the services of a Police Officer was retained was to coordinate air transport logistics when the Commission members had to travel by air to the North.

(2) Why is the Commission's mandate so short, and geographically limited?

Please see (a) and (b) above.

(3) How can the Commission ensure that all complainants, in all parts of the country, can participate in this process? Are there plans to extend the time period and geographical work of this Commission?

The Commission has conducted an extensive publicity campaign and provides details on a regular basis on how and when complaints can be submitted to the Commission.

The Commission has requested, and has been granted an extension to its mandate by a further six months until August 12, 2014. Further extensions may be requested if needed in order for the Commission to comprehensively complete its work.

(4) What is the role of the military and security forces as well as the Attorney General's office in the Commission's work, and specially the hearings?

Commission has not engaged the services of any military or security forces personnel, and they are not involved in the Commission's work.

As a practice in all Commissions of Inquiries, assistance is sought from the Attorney General to nominate officers to assist their work. The Attorney General does not play a specific role in the proceedings. Officers who are nominated by the Attorney General do not represent the Attorney General but work as Counsel Assisting the Commission. Therefore, no conflict of interest arises when steps are taken to initiate prosecutions by the Attorney General against errant 'Police Officers' based on the findings / recommendations of the Commissions. In the case of a conflict of interest arising from an officer of the Attorney General's Department assisting the Commission, immediate action would be taken to remedy such situations so that the confidence in the Commission will not be undermined.

(5) Why are military and security officials involved in the collection of witness statements when they seem to affect the participation of complainants?

Commission denies that military or security forces personnel are involved in any of the Commission's work, including the collection of witness statements as claimed.

(6) Are there means to allow complainants to interact with the Commission without security force involvement and presence at the hearings? Is there any witness protection mechanism?

There has been no security forces personnel involvement in the Commission's work at any stage, and none has been present at any of the hearings. The complainants interact with the Commission at their own free will, and no complaint has been received by the Commission to the contrary effect.

(7) Why are the Commission and its documents in English and not in Tamil and other languages?

All documentation is available in Tamil, Sinhala and English. The Commission follows the government's official language policy in all its work.

(8) What are the measures taken to ensure access to the Commission by non-English speakers?

Tamil speaking officers from the District Secretariats in the Northern and Eastern provinces have been appointed to facilitate access to the Commission by Tamil speaking or non-English speaking complainants, and also by those who are not able to make written submissions to the Commission.

(9) Why is the information campaign about the Commission so limited and what is being done to disseminate the information more widely?

Information campaign about the Commission's work has been, and continues to be conducted extensively. Please also see (c) above.

(10) Is there any mechanism to ensure that the Commission's findings are applied to the outstanding cases from the UN Working Group?

Such matter has not been brought before the Commission to consider and make a decision. A mechanism can be formulated to receive outstanding cases from the UN Working Group, if they fall within the scope of the Commission.

(11) In the wake of the Commission's findings, will there be further investigations and prosecutions of all cases presented to the Commission?

Yes.

(12) Why is the reparation process linked to the Commission? Should not there be two separate processes?

Ensuring this task to another agency will further complicate the process. The Commission, having had the opportunity to hear and analyse the grievance of a victim, will be in a better position to make suitable recommendations. In addition, the aim of the Government is to put in place a credible and acceptable mechanism addressing the genuine grievances of a victim in an efficient and effective manner.

(13) Why are only some of the hearings held in public?

All hearings are held in public. Please see (i) above.

(14) Will the recommendations from previous Commissions of Inquiry, that are relevant to this Commission's mandate, be considered by this Commission and in the follow up work to the Commission?

If the recommendations are found to be relevant, the Commission will consider them in its work.