



General Assembly

Distr.: General
31 July 2023

Original: English

Human Rights Council

Fifty-fourth session

11 September–6 October 2023

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Arbitrary detention

Report of the Working Group on Arbitrary Detention*

Summary

In 2022, the Working Group on Arbitrary Detention, under its regular procedure, adopted 88 opinions concerning the detention of 160 persons in 50 countries. It also transmitted 43 urgent appeals to 22 Governments and, in one case, to other actors, and 111 allegation letters and other letters to 61 Governments and, in three cases, to other actors, concerning at least 356 identified individuals. Some States informed the Working Group that they had taken measures to remedy the situations of detainees and, in numerous cases, the detainees were released. The Working Group is grateful to those Governments that responded to its appeals and took steps to provide it with the information requested on the situation of detainees.

The Working Group conducted country visits to Botswana, from 4 to 15 July 2022, and to Mongolia, from 3 to 14 October 2022.

In the report, the Working Group examines the following thematic issues: (a) arbitrary detention and laws on spreading disinformation; (b) arbitrary detention and the coronavirus disease (COVID-19) pandemic; and (c) deprivation of liberty of environmental human rights defenders.

In its recommendations, the Working Group reiterates its call to States to continue to increase their cooperation with regard to their responses to regular communications, by reporting through the follow-up procedure on the implementation of the Working Group's opinions (including on the provision of appropriate remedies and reparations to victims of arbitrary detention), and by providing positive responses to requests for country visits. It also urges States to refrain from using anti-disinformation legislation or vaguely worded or overly broad laws to prosecute individuals for the dissemination of information in the course of their work; not to arbitrarily detain individuals in the implementation of public health emergency measures; and to protect and empower environmental human rights defenders to participate in activities related to the protection and promotion of environmental human rights. The Working Group further urges States to provide adequate and predictable human resources in order to allow it to fulfil its mandate in an effective and sustainable manner. It calls on States

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



to heed the call by the United Nations High Commissioner for Human Rights to end arbitrary detention once and for all, and to release individuals arbitrarily detained.

Contents

	<i>Page</i>
I. Introduction	4
II. Activities of the Working Group	4
A. Study on arbitrary detention relating to drug policies	4
B. Handling of communications addressed to the Working Group during 2022	5
C. Country visits	24
III. Thematic issues	25
A. Arbitrary detention and laws on spreading disinformation	25
B. Arbitrary detention and the COVID-19 pandemic	27
C. Deprivation of liberty of environmental human rights defenders	29
IV. Conclusions	30
V. Recommendations	31

I. Introduction

1. The Working Group on Arbitrary Detention was established by the Commission on Human Rights in its resolution 1991/42. It was entrusted with the investigation of cases of alleged arbitrary deprivation of liberty according to the standards set forth in the Universal Declaration of Human Rights and the relevant international instruments accepted by the States concerned. The mandate of the Working Group was clarified and extended by the Commission in its resolution 1997/50 to cover the issue of administrative custody of asylum-seekers and immigrants. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 51/8 of 6 October 2022.

2. During the period from 1 January to 31 April 2022, the Working Group was composed of Miriam Estrada-Castillo (Ecuador), Priya Gopalan (Malaysia), Mumba Malila (Zambia), Elina Steinerte (Latvia) and Leigh Toomey (Australia). From 1 May to 31 October 2022, the Working Group was composed of Miriam Estrada-Castillo (Ecuador), Matthew Gillett (New Zealand), Priya Gopalan (Malaysia), Mumba Malila (Zambia) and Elina Steinerte (Latvia). As of 1 November 2022, the Working Group was composed of Miriam Estrada-Castillo (Ecuador), Matthew Gillett (New Zealand), Priya Gopalan (Malaysia), Mumba Malila (Zambia) and Ganna Yudkivska (Ukraine).

3. Ms. Steinerte served as Chair-Rapporteur of the Working Group from May 2021 to April 2022, and Ms. Estrada-Castillo as Vice-Chair. At the ninety-third session of the Working Group, in April 2022, Ms. Estrada-Castillo was elected as Chair-Rapporteur and Mr. Malila was elected as Vice-Chair.

II. Activities of the Working Group

4. During the period from 1 January to 31 December 2022, the Working Group held its ninety-third, ninety-fourth and ninety-fifth sessions.

5. The Working Group conducted country visits to Botswana, from 4 to 15 July 2022,¹ and to Mongolia, from 3 to 14 October 2022.²

6. In order to facilitate outreach and information-sharing, the Working Group met with a group of non-governmental organizations during its ninety-fourth session to gather information on issues relating to arbitrary deprivation of liberty and to enhance civil society's understanding of the Working Group's methods of work³ and its operations.

A. Study on arbitrary detention relating to drug policies

7. During 2022, the Working Group continued to follow up on its study on arbitrary detention relating to drug policies,⁴ and disseminated its findings and recommendations at numerous intergovernmental and regional events. These activities included addressing the Commission on Narcotic Drugs at its sixty-fifth session, on 17 March 2022, and participating in two side events to the sixty-fifth session of the Commission: on human rights and the right to equitable health, social and justice remedies for people who use drugs, organized by the authorities of Malta and Portugal and the Cooperation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group) of the Council of Europe, on 15 March 2022; and on practical measures for the prohibition of arbitrary detention in the context of drug control measures, organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), on 17 March 2022. The Working Group also participated in the Second Brandenburg Forum in Geneva, on aligning drug policies with human rights, on 1

¹ See [A/HRC/54/51/Add.1](#).

² See [A/HRC/54/51/Add.2](#).

³ [A/HRC/36/38](#).

⁴ [A/HRC/47/40](#).

and 2 June 2022; the Virtual Round Table on Compulsory Drug Treatment and Rehabilitation, Health, and Human Rights in Asia, in June 2022;⁵ an event organized by the International Drug Policy Consortium to launch its report of the proceedings of the sixty-fifth session of the Commission on Narcotic Drugs,⁶ on 15 September 2022; and presenting its study to the Asia-Pacific Human Rights Working Group on 3 May 2022.

B. Handling of communications addressed to the Working Group during 2022

1. Communications transmitted to Governments

8. At its ninety-third, ninety-fourth and ninety-fifth sessions, the Working Group adopted a total of 88 opinions concerning 160 persons in 50 countries (see the table below).

2. Opinions of the Working Group

9. Pursuant to its methods of work, in addressing its opinions to Governments, the Working Group drew their attention to Commission on Human Rights resolutions 1997/50 and 2003/31 and Human Rights Council resolutions 6/4, 24/7, 42/22 and 51/8, in which those bodies requested States to take account of the Working Group's opinions and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty and to inform the Working Group of the steps that they had taken. Upon the expiry of a 48-hour deadline following transmission of the opinions to the Governments concerned, the opinions were transmitted to the relevant sources.

⁵ See Quinten Lataire, Karen Peters and Claudia Stoicescu, "Virtual roundtable: compulsory drug treatment and rehabilitation, health, and human rights in Asia", *Health and Human Rights Journal*, vol. 24, No. 1 (June 2022), pp. 203–215.

⁶ See <https://idpc.net/publications/2022/07/the-65th-session-of-the-commission-on-narcotic-drugs-report-of-proceedings>.

Opinions adopted at the ninety-third, ninety-fourth and ninety-fifth sessions of the Working Group

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
1/2022	Mexico	Yes	Andrew Armando Córdova	Detention arbitrary, categories I, III and V	Mr. Córdova released after exceeding the maximum possible penalty of imprisonment. However, he is still detained in pretrial detention owing to another ongoing investigation. The violation of his rights is still being investigated by the public prosecutor; there are six files under his name before the National Human Rights Commission. (Information from the Government and the source)
2/2022	Kazakhstan	No ⁷	Alnur Ilyashev	Detention arbitrary, categories I, II, III and V	Mr. Ilyashev has not appealed the rulings against him or applied to the courts for compensation. No violation of Mr. Ilyashev's rights under the Code of Criminal Procedure were found to have occurred during the pretrial investigation or the criminal hearing. (Information from the Government)
3/2022	United Republic of Tanzania	No (late)	Freeman Mbowe	Detention arbitrary, categories I, II, III and V	None
4/2022	Israel	No	Mohammad Ghassan Ahmad Mansour	Detention arbitrary, categories I, III and V	Mr. Mansour was released from administrative detention on 6 June 2022 as his latest administrative detention order expired and was not renewed. (Information from the source)
5/2022	Iraq	No	Abdullah Ahmed Faleh Ahmed al-Taei	Detention arbitrary, categories I and III	None
6/2022	China	No	Abdurashid Tohti, Tajigul Qadir, Ametjan Abdurashid and Mohamed Ali Abdurashid	Detention arbitrary, categories I, III and V	None

⁷ On 8 June 2022, the Government submitted a late response, after the adoption of the opinion.

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
7/2022	United States of America	Yes	Leonard Peltier	Detention arbitrary, categories III and V	None
8/2022	Malaysia and Türkiye	Malaysia: No Türkiye: Yes	Alettin Duman and Tamer Tibik	Detention arbitrary, categories I, II, III and V	None
9/2022	China	Yes	Wang Jianbing	Detention arbitrary, categories I, II and III	None
10/2022	Nicaragua	No	Arturo Cruz Sequeira, Violeta Granera Padilla, José Aguerri Chamorro, José Bernard Pallais Arana, Daysi Dávila Rivas, Ana Vijil Gurdíán, Dora Téllez Argüello, Suyen Barahona Cuan, Jorge Hugo Torres Jiménez, Víctor Tinoco Fonseca, Luis Rivas Anduray, Miguel Mora Barberena, Miguel Mendoza Urbina and Pedro Chamorro Barrios	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. (Information from the source)
11/2022	Libya	No	Omar al-Mukhtar Ahmed al-Daguel	Detention arbitrary, categories I, II and III	No action taken to implement the opinion. (Information from the source)
12/2022	Türkiye	Yes	Anas al-Mustafa	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. Mr. Al-Mustafa's lawyer requested the removal of the G-82 restriction code, but no action from the Administrative Court followed. (Information from the source)
13/2022	Viet Nam	Yes	Chau Van Kham	Detention arbitrary, categories I, II, III and V	None
14/2022	Philippines	Yes	Teresita Naul	Detention arbitrary, categories I, II, III and V	Ms. Naul is not qualified to receive compensation under section 3 of Republic Act No. 7309. (Information from the Government)

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
15/2022	Algeria	Yes	Kamira Nait Sid	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. On 5 December 2022, Ms. Nait Sid was sentenced to five years in prison and a fine of 100,000 dinars. On 1 March 2023, she was further sentenced in another case to two years in prison. Her lawyers have appealed these decisions. (Information from the source)
16/2022	Venezuela (Bolivarian Republic of)	Yes	Tomeu Vadell Recalde	Detention arbitrary, categories I and III	None
17/2022	Somalia	No	Kilwe Adan Farah	Detention arbitrary, categories I, II, III and V	None
18/2022	Turkmenistan	No	Pygamberdy Allaberdyev	Detention arbitrary, categories I, II and III	Mr. Allaberdyev was pardoned and released on 20 December 2022 after spending more than two years in detention. His initial conviction remains part of his criminal record. He has not been provided compensation and no steps have been taken to investigate the violation of his rights. (Information from the source)
19/2022	United Arab Emirates	No	Ryan Cornelius	Detention arbitrary, categories I and III	None
20/2022	Iran (Islamic Republic of)	No (late)	Vahid Afkari and Habib Afkari	Detention arbitrary, categories I, II and III	Habib Afkari was granted Islamic leniency and released on parole after having served only part of his sentence and following the issuance of a final judgment. Vahid Afkari was convicted by two courts and is serving his sentence. According to article 11 of the Law on Commuting Discretionary Punishment, only the severest punishment is applicable, which in his case is seven years of imprisonment. (Information from the Government)

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
21/2022	Mexico	No	Juan Carlos Juárez Rivas	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. (Information from the Government and the source)
22/2022	Sri Lanka	No	Ahnaf Jazeem	Detention arbitrary, categories I, II, III and V	Proceedings against Mr. Jazeem are ongoing. He remains out of police custody on bail. As of August 2022, bail conditions required Mr. Jazeem to report monthly to the Mannar office of the Counter-Terrorism and Investigation Division. Additionally, in August 2022, Mr. Jazeem was included on the list of designated persons, which functions as an extremism watch list. (Information from the source)
23/2022	Egypt	No	A minor whose name is known to the Working Group	Detention arbitrary, categories I and III	No action taken to implement the opinion. The minor is still being subjected to enforced disappearance. No information on his whereabouts have been disclosed to his family. (Information from the source)
24/2022	Belarus	No	Maksim Znak	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. The detention conditions of Mr. Znak have worsened. (Information from the source)
25/2022	Nigeria and Kenya	Nigeria: Yes Kenya: No	Nwannekaenyi Nnamdi Kenny Okwu-Kanu	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. Mr. Kanu remains in solitary confinement without access to the necessary medical care or to counsel of his choice. (Information from the source)
26/2022	Sweden	Yes	Hassan Fazali	Detention arbitrary, categories III, IV and V	No action taken to implement the opinion. (Information from the source)

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
27/2022	United Arab Emirates, Oman and Iran (Islamic Republic of)	United Arab Emirates: No Oman: No (late) Iran (Islamic Republic of): Yes	Jamshid Sharmahd	United Arab Emirates: detention arbitrary, categories I and III Oman: insufficient information Iran (Islamic Republic of): detention arbitrary, categories I, II and III	The bailiffs of the justice administration implemented special measures for holding Mr. Sharmahd in custody owing to his health condition. (Information from the Government of the Islamic Republic of Iran) Mr. Sharmahd remains detained at an unknown location, suffering from various health problems. (Information from the source)
28/2022	Australia	No (late)	Mr. A., whose name is known to the Working Group	Detention arbitrary, categories I, II, IV and V	On 3 August 2022, Mr. A. was released from immigration detention after the Minister for Home Affairs granted him a seven-day humanitarian stay visa and a one-year bridging visa E, and lifted the statutory bars for an indefinite period to allow him to apply for bridging visas E. The Government has not acted upon and does not intend to act upon the recommendations pertaining to compensation and other reparations or those pertaining to a full and independent investigation. (Information from the Government)
29/2022	United Arab Emirates and Saudi Arabia	United Arab Emirates: No Saudi Arabia: Yes	Omar Aljabri, Sarah Aljabri and Salem Almuzaini	Detention arbitrary, categories I, III and V ⁸	No action taken to implement the opinion. (Information from the source)
30/2022	Saudi Arabia	Yes	Abdulrahman al-Sadhan	Detention arbitrary, categories I, II, III and V ⁹	None
31/2022	Morocco	Yes	Soulaimane Raissouni	Detention arbitrary, categories I, II and III	None

⁸ On 4 November 2022, the Government of Saudi Arabia submitted a request for review of opinion No. 29/2022, which will be considered by the Working Group at a future session.

⁹ On 9 March 2023, the Government of Saudi Arabia submitted a request for review of opinion No. 30/2022, which will be considered by the Working Group at a future session.

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
32/2022	Australia	Yes	Ahmed Sayahi	Detention arbitrary, categories I, II, IV and V	<p>Mr. Sayahi remains in immigration detention based on an assessment that he poses a risk to the community. The Government has not acted upon and does not intend to act upon the recommendations pertaining to compensation and other reparations or those pertaining to a full and independent investigation. (Information from the Government)</p> <p>Mr. Sayahi remains detained. (Information from the source)</p>
33/2022	Australia	Yes	Wissam Jadiri	Detention arbitrary, categories I, II, IV and V	<p>Mr. Jadiri was released from immigration detention on 17 May 2022 and allowed to reside in the community at a specified address. He remains lawfully detained following a residence determination made by the former Minister for Home Affairs on 16 May 2022. Mr. Jadiri has no matters before the Department of Home Affairs, tribunals or the courts. The Department continues to progress Mr. Jadiri's involuntary removal to Iraq. The Government has not acted upon and does not intend to act upon the recommendations pertaining to compensation and other reparations or those pertaining to a full and independent investigation. (Information from the Government)</p>

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
34/2022	Egypt	No	Omar Abdel Aziz Mohammed Abdel Aziz, Khaled Mohamed Abdel Raouf Sahloob, Hossam Abdel Razek Abdel Salam Khalil and Mohammed Abdel Aziz Farag Ali	Detention arbitrary, categories I and III	Mr. Abdel Aziz remains detained. On three occasions, his release was ordered but not executed. He was sentenced in November 2022 and is being denied the necessary medical treatment. On 28 June 2022, Mr. Sahloob was sentenced to life in prison. He is being denied medical care and family visits. Mr. Khalil remains detained and his health condition is worsening as he has not been receiving proper medical care. He was denied medical examinations as punishment for requesting a meeting with the prison director. Mr. Ali remains detained and is being denied medical care. (Information from the source)
35/2022	Viet Nam	Yes	Nguyen Bao Tien	Detention arbitrary, categories I, II and III	None
36/2022	Saudi Arabia	Yes	Hussein Abo al-Kheir	Detention arbitrary, categories I and III ¹⁰	Mr. Abo al-Kheir was executed on 12 March 2023. (Information from the Government)
37/2022	Cuba	Yes	Alina López Miyares	Detention arbitrary, categories I and III	None
38/2022	Brazil	Yes	José Sobrinho Vargas Junior	Detention arbitrary, category I	The case against Mr. Vargas is still ongoing before the judiciary, respecting the presumption of innocence and subject to periodical judicial control. Consequently, no action can be taken to implement the opinion at this stage. (Information from the Government)
39/2022	Tajikistan	No	Abdulgajid Rizoiev	Detention arbitrary, categories I, II, III and V	None

¹⁰ On 11 April 2023, the Government of Saudi Arabia submitted a request for review of opinion No. 36/2022, which will be considered by the Working Group at a future session.

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
40/2022	Viet Nam	Yes	Tran Duc Thach	Detention arbitrary, categories I, II, III and V	None
41/2022	China	No (late)	Qin Yongpei	Detention arbitrary, categories I, II, III and V	Mr. Qin continues to be detained. On 31 March 2023, Nanning Municipal Intermediate People's Court in Guangxi Zhuang Autonomous Region convicted Mr. Qin of "inciting subversion to State power" and sentenced him to five years in prison, to be followed by three years of deprivation of political rights. (Information from the source)
42/2022	Australia	Yes	Amani Bol Santino Visona	Detention arbitrary, categories I, II, IV and V	Ms. Visona remains in immigration detention owing to her status as an unlawful non-citizen pursuant to section 14 of the Migration Act 1958. The Government has not acted upon and does not intend to act upon the recommendations pertaining to compensation and other reparations or those pertaining to a full and independent investigation. (Information from the Government)
43/2022	Viet Nam	Yes	Nguyen Ngoc Anh	Detention arbitrary, categories I, II, III and V	None
44/2022	Israel	No	Saeed AbdulRahman Jabr Husain Saleh, Ramzi AbdulRahman Jabr Husain Saleh, Raed Fareed Hamdan Hasan al-Hajj Ahmad, Diyaa Zakaria Shaker al-Falooji, Naser Mohamed Yusuf al- Naji, Omar Ismail Omar Wadi and Bassem Mohamed Saleh Adib Khandakji	Detention arbitrary, categories I, III and V	None

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
45/2022	Algeria	Yes	Mohamed Tadjdid, Malik Riyahi, Soheib Debaghi, Tarek Ahmed Debaghi and Nourredine Khimoud	Detention arbitrary, categories I, II, III and V	None
46/2022	Iran (Islamic Republic of)	No (late)	Arash Ganji, Keyvan Bajan, Baktash Abtin and Reza Khandan Mahabadi	Detention arbitrary, categories I, II, III and V	None
47/2022	Ghana	No	George Nyakpo	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. (Information from the source)
48/2022	Venezuela (Bolivarian Republic of)	Yes	Roland Carreño Gutiérrez	Detention arbitrary, categories II, III and V	Mr. Carreño Gutiérrez continues to be deprived of his liberty. The Government has not acted upon the recommendations pertaining to compensation and other reparations or those pertaining to a full and independent investigation. (Information from the source)
49/2022	Bahrain	Yes	Sayed Mujtaba Saeed Alawi Ali al-Khabbaz, Hasan Hameed Abdalnabi Ali Naser Meshamea, Sayed Ahmed Hadi Alawi Amin Hasan and Sayed Mahmood Ali Moosa Jaafar al-Alawi	Detention arbitrary, categories I and III	None
50/2022	Morocco	Yes	Sultana Khaya and Luara Khaya	Sultana Kaya: detention arbitrary, categories I, III and V Luara Khaya: detention arbitrary, categories I, II, III and V ¹¹	No action taken to implement the opinion. Sultana Khaya remains in Spain where she is receiving medical treatment. Luara Khaya travelled to Laâyoune but is unable to obtain the necessary medical care. Their applications to rebuild their family home in Boujdour have repeatedly been denied. (Information from the source)

¹¹ On 16 June 2023, the Government of Morocco submitted a request for review of opinion No. 50/2022, which will be considered by the Working Group at a future session.

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
51/2022	Benin	Yes	Reckya Madougou	Detention arbitrary, categories I, II and III	None
52/2022	Cuba	No (late)	Luis Manuel Otero Alcántara and Hamlet Lavastida	Detention arbitrary, categories I, II, III and V	None
53/2022	Egypt	No	Haytham Fawzy Mohamden	Detention arbitrary, categories I, II, III and V	Mr. Mohamden was released from detention by the Presidential Pardon Committee on 15 September 2022. Charges against him were not dropped, and he does not know whether he is subject to a travel ban. (Information from the source)
54/2022	Iran (Islamic Republic of)	No (late)	Nahid Taghavi	Detention arbitrary, categories I, II, III and V	Ms. Taghavi remains detained and is in a poor state of health. (Information from the source)
55/2022	Venezuela (Bolivarian Republic of)	Yes	Amílcan José Pérez	Detention arbitrary, categories I, III and V	None
56/2022	Libya	No	Rajab Zhileg	Detention arbitrary, category I	None
57/2022	Kazakhstan	Yes	Karim Massimov	Detention arbitrary, categories I and III ¹²	No action taken to implement the opinion. Mr. Massimov remains detained and his health is deteriorating owing to lack of appropriate medical care (Information from the source)
58/2022	Nicaragua	Yes	Cristiana María Chamorro Barrios, Marcos Antonio Fletes Casco, Walter Antonio Gómez Silva and Pedro Salvador Vásquez Cortedano	Detention arbitrary, categories I, II, III and V	None

¹² On 18 and 27 April 2023, the Government of Kazakhstan submitted a request for review of opinion No. 57/2022, which will be considered by the Working Group at a future session.

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
59/2022	Cameroon and Nigeria	No	Julius AyukTabe, Wilfred Fombang Tassang, Ngala Nfor Nfor, Blaise Sevidzem Berinyuy, Elias Ebai Eyambe, Fidelis Ndeh-Che, Egbe Ntui Ogork, Cornelius Njikimbi Kwanga, Henry Tata Kimeng and Cheh Augustine Awasum	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. (Information from the source)
60/2022	Egypt	No (late)	Walid Ahmed Shawky el-Sayed	Detention arbitrary, categories I, II and III	Mr. Shawky was released on 24 April 2022, upon the order of the Supreme State Security Prosecution. He remains assigned to his residence. (Information from the source)
61/2022	Venezuela (Bolivarian Republic of)	Yes	José Eloy Rivas	Detention arbitrary, category III	None
62/2022	Saudi Arabia	Yes	Husain bin Abdulla bin Yusuf al-Sadeq	Detention arbitrary, categories I, II, III and V ¹³	None
63/2022	Cameroon	No	Maurice Kamto, Albert Dzongang, Alain Fogue Tedom, Michèle Ndoki, Paul Eric Kingue, Gaston Philippe Abe Abe, Célestin Djamé Ndjamo, Sylvanus Muthaga, Jean Djieukou Mouaffi, Samiratou Matchuendem, Laure Kamegne Noutchang, Jean Bonheur Tchouefa Nouka, Mamadou Yacoubou, Christian Fouelefack Tsamo and Olivier Bibou Nissack	Detention arbitrary, categories I, II and III	None

¹³ On 20 April 2023, the Government of Saudi Arabia submitted a request for review of opinion No. 62/2022, which will be considered by the Working Group at a future session.

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
64/2022	China	No (late)	Yalqun Rozi	Detention arbitrary, categories I, II, III and V	Mr. Rozi continues to be deprived of his liberty. (Information from the source)
65/2022	Bahrain	Yes	Naji Fateel	Detention arbitrary, categories I, II, III and V	None
66/2022	United States, Pakistan, Thailand, Poland, Morocco, Lithuania, Afghanistan and United Kingdom of Great Britain and Northern Ireland	Poland, Morocco and United Kingdom: Yes United States, Thailand and Lithuania: No (late) Pakistan and Afghanistan: No	Zayn al-Abidin Muhammad Husayn (Abu Zubaydah)	United States: detention arbitrary, categories I, III and V Pakistan: insufficient basis Thailand, Poland, Morocco, Lithuania, Afghanistan and United Kingdom: detention arbitrary, categories I and III	The relevant government agencies do not have information or records regarding the creation of the Central Intelligence Agency detention centre, regarding the detention or torture of Mr. Zubaydah in Thailand or regarding his transfer or extradition to and/or from Thailand. The Government of Thailand stands ready to investigate further and verify the information, should the Working Group have additional concrete information regarding perpetrator(s) and the location of his detention in Thailand. The Act on the Prevention and Suppression of Torture and Enforced Disappearance entered into force on 22 February 2023. (Information from the Government of Thailand)
67/2022	Venezuela (Bolivarian Republic of)	Yes	John Jairo Gasparini Ferbans	Detention arbitrary, categories I and III	None
68/2022	Israel	No	Bashir Khairi	Detention arbitrary, categories I, III and V	None
69/2022	Australia	Yes	Mr. A, whose name is known to the Working Group	Detention arbitrary, categories I, II, IV and V	Mr. A was released from immigration detention on 20 March 2023. (Information from the source)

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
70/2022	Mexico	Yes	Víctor Hugo Aguilar Oliver	Detention arbitrary, categories I and III	Mr. Aguilar Oliver was released on 24 October 2022, after a judge ruled that his detention violated his right to personal liberty and that he had been subjected to torture. No reparations have been provided to him and no investigation into the violations of his rights has been conducted. (Information from the source)
71/2022	Lebanon	No	Chafic Merhi, Hassan Kraytem, Hanna Fares and Badri Daher	Detention arbitrary, categories I and III	All four individuals have been released, subject to a travel ban to ensure that they remain at the disposal of the Judicial Council pending the issuance of a decision on the investigation. (Information from the Government) All four individuals were released on 25 January 2023. No further action taken to implement the opinion. (Information from the source)
72/2022	Afghanistan, Lithuania, Morocco, Poland, Romania, Thailand, United Arab Emirates and United States	Morocco, Poland and Romania: Yes Lithuania: No (late) Afghanistan, Thailand, United Arab Emirates and United States: No	Abd al-Rahim Hussein al-Nashiri	United States: detention arbitrary, categories I, III and V Afghanistan, Lithuania, Morocco, Poland, Romania, Thailand and United Arab Emirates: detention arbitrary, categories I and III	None
73/2022	Nicaragua	No	Juan Sebastián Chamorro García and Félix Alejandro Maradiaga Blandón	Detention arbitrary, categories I, II, III and V	None
74/2022	Kuwait	Yes	Samih Maurice Twadros Bowles	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. (Information from the source)
75/2022	Congo	No	Christian Roger Okemba	Detention arbitrary, categories I, II and III	None

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
76/2022	Yemen and United Arab Emirates	No	Zack Shahin	Yemen: detention arbitrary, categories I and III United Arab Emirates: detention arbitrary, categories I, III and V	None
77/2022	Tajikistan	No	Saidnuriddin Shamsiddinov	Detention arbitrary, categories II, III and V	None
78/2022	Russian Federation	Yes	Alexey Gorinov	Detention arbitrary, categories II, III and V	None
79/2022	Algeria	Yes	Mohamed Baba Nadjar	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. (Information from the source)
80/2022	Mexico	Yes	Armando García Noguez	Detention arbitrary, categories I and III	No action taken to implement the opinion. (Information from the source)
81/2022	Mexico	Yes	Jorge Alberto Burelo Gómez	Detention arbitrary, categories I, III and V	None
82/2022	Iran (Islamic Republic of)	No (late)	Zara Mohammadi	Detention arbitrary, categories I, II, III and V	Ms. Mohammadi was released in February 2023, pursuant to an amnesty issued by the Supreme Leader of the Islamic Republic of Iran. (Information from the Government)
83/2022	Uzbekistan	No	Otabek Sattoriy	Detention arbitrary, categories I, II and V	None
84/2022	Saudi Arabia	Yes	Abdelrhman Mohammed Farhanah	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. (Information from the source)
85/2022	Guatemala	Yes	Sergio Alfredo Herrera Acevedo	Detention arbitrary, category I	None
86/2022	Viet Nam	No (late)	Do Nam Trung	Detention arbitrary, categories I, II, III and V	None
87/2022	Venezuela (Bolivarian Republic of)	Yes	José Alberto Vásquez López	Detention arbitrary, categories I and III	None

<i>Opinion No.</i>	<i>State(s)</i>	<i>Government reply</i>	<i>Person(s) concerned</i>	<i>Opinion</i>	<i>Follow-up information received</i>
88/2022	China	No	Qurban Mamut, Ekpar Asat and Gulshan Abbas	Detention arbitrary, categories I, III and V	None

3. Follow-up procedure

10. The table above shows information received by the Working Group as at 30 June 2023 pursuant to the follow-up procedure adopted by the Working Group at its seventy-sixth session, held in August 2016.

11. The Working Group thanks the sources and the Governments for their responses in the context of its follow-up procedure and invites all parties to cooperate and provide such responses. It notes, however, that these responses do not necessarily imply the implementation of its opinions. The Working Group encourages sources and Governments to provide comprehensive information on the implementation of its opinions, including on the release of individuals who have been the subject of its opinions, as well as other information, such as on the payment of compensation and/or reparations, the investigation of alleged violations and any other changes in legislation or practices, in accordance with the recommendations made.

4. Release of the subjects of the Working Group's opinions

12. The Working Group notes with appreciation the information received during the reporting period on the release of the following subjects of its opinions:

- Said Imasi (opinion No. 71/2017, Australia) – released on 9 May 2023, after having spent 13.5 years in immigration detention
- Mustafa Taleb Younes Abdelkhalek al-Darsi (opinion No. 13/2020, Libya) – released on 30 April 2023
- Juana Alonzo Santizo (opinion No. 35/2021, Mexico) – released in May 2022
- Marcelino Ruiz (opinion No. 43/2021, Mexico) – released on 7 May 2022
- Ziad el-Elaimy (opinion No. 79/2021, Egypt) – released from detention on 24 October 2022 by the Presidential Pardon Committee
- Paul Rusesabagina (opinion No. 81/2021, Rwanda) – released from prison on 24 March 2023 following the commutation of his sentence
- Freeman Mbowe (opinion No. 3/2022, United Republic of Tanzania) – released on 4 March 2022 and all charges dropped
- Mohammad Ghassan Ahmad Mansour (opinion No. 4/2022, Israel) – released from administrative detention on 6 June 2022
- Pygamberdy Allaberdyev (opinion No. 18/2022, Turkmenistan) – released on 20 December 2022 by an act of pardon
- Habib Afkari (opinion No. 20/2022, Islamic Republic of Iran) – granted Islamic leniency and released on parole after having served part of his sentence
- Mr. A. (opinion No. 28/2022, Australia) – released from immigration detention on 3 August 2022
- Walid Ahmed Shawky el-Sayed (opinion No. 60/2022, Egypt) – released from detention on 24 April 2022, but remains assigned to his residence
- Mr. A (opinion No. 69/2022, Australia) – released from immigration detention on 20 March 2023
- Victor Hugo Aguilar Oliver (opinion No. 70/2022, Mexico) – released on 24 October 2022, after a judge ruled that his detention violated his right to personal liberty and that he had been subjected to torture
- Chafic Merhi, Hassan Kraytem, Hanna Fares and Badri Daher (opinion No. 71/2022, Lebanon) – released from detention on 25 January 2023, subject to a travel ban
- Zara Mohammadi (opinion No. 82/2022, Islamic Republic of Iran) – released in February 2023, pursuant to an amnesty issued by the Supreme Leader of the Islamic Republic of Iran

- Safwan Ahmed Hassan Thabet and Seif Eldin Safwan Ahmed Thabet (opinion No. 12/2023, Egypt) – released from prison on 21 January 2023
- Saba Kord Afshari (opinion No. 21/2023, Islamic Republic of Iran) – pardoned by the Supreme Leader of the Islamic Republic of Iran and released on 8 February 2023
- Raheleh Ahmadi (opinion No. 21/2023, Islamic Republic of Iran) – released on 14 October 2022, after her sentence was reduced to 31 months of penal servitude

13. The Working Group expresses its gratitude to those Governments that released detainees who had been the subject of its opinions, although it notes that such releases do not always imply the implementation of its opinions. It regrets that various States have not cooperated in implementing the opinions and urges those States to do so as a matter of urgency. The Working Group recalls that the continuous detention of those individuals is a continued violation of their right to liberty under article 9 of the Universal Declaration of Human Rights and, for States parties, under article 9 of the International Covenant on Civil and Political Rights.

5. Reactions from Governments concerning previous opinions

14. During the reporting period, the Working Group received several reactions from Governments concerning its previous opinions.

15. In a note verbale dated 11 July 2022, the Government of Viet Nam rejected opinion No. 82/2021 concerning Đinh Thị Thu Thủy, and expressed regret that its response had not been recognized and evaluated objectively. The Government contested the Working Group's conclusion that Ms. Đinh had been arrested for having exercised her rights to freedom of expression, peaceful assembly and association.

16. In a note verbale dated 13 September 2022, the Government of Kuwait informed the Working Group that the arbitration tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law had delivered a judgment against Maria Lazareva, subject of opinion No. 60/2020, for misappropriation and misuse of public funds. The Government considered that the judgment confirmed its position regarding the allegations against it and that the judgment reaffirmed the independence of the Kuwaiti judiciary and its rulings.

17. In relation to opinions No. 28/2022, No. 32/2022, No. 33/2022 and No. 42/2022, the Government of Australia has maintained that the subjects of the opinions were lawfully detained and that their detention is not arbitrary.

18. In a note verbale dated 25 October 2022, the Government of the Islamic Republic of Iran contested opinion No. 20/2022 concerning Vahid Afkari and Habib Afkari. It stated that the criminal proceedings against these individuals were not connected to their exercise of fundamental rights and freedoms under international law and that they had been convicted in compliance with all relevant legal formalities. The Government added that despite his crimes, Habib Afkari had been granted Islamic leniency and released on parole after having served only part of his sentence. Vahid Afkari had been convicted by two courts and was serving his sentence.

19. In a note verbale dated 10 November 2022, the Government of Kazakhstan contested opinion No. 2/2022 concerning Mr. Ilyashev, and provided an explanation about his situation and the proceedings against him. It noted that the new act on the procedure for organizing and conducting peaceful assemblies in Kazakhstan had been in force since 6 June 2020 and allowed everyone to actively exercise the right to freedom of assembly, in accordance with international practice. It informed the Working Group that further improvements would be made to the legislation governing peaceful assemblies, taking into account practice in the application of the law and international experience.

20. In three notes verbales, dated 28 November 2022 and 13 January and 17 April 2023, the Government of the Islamic Republic of Iran transmitted comments and reports of the High Council for Human Rights of the Islamic Republic of Iran and rejected the findings of opinion No. 27/2022 concerning Mr. Sharmahd. The reports contain information about

Mr. Sharmahd's trial and elaborate on judicial adherence to ensure a fair trial for individuals accused in terrorism cases and to protect the rights of convicts.

21. In a note verbale dated 14 of April 2023, the Government of the Islamic Republic of Iran rejected opinion No. 82/2022 and informed the Working Group that Ms. Mohammadi had been released in February 2023, pursuant to an amnesty issued by the Supreme Leader of the Islamic Republic of Iran.

6. Requests for review of opinions adopted

22. The Working Group considered the requests for review of the following opinions:

- Opinion No. 34/2021 concerning Mohammed Saleh al-Khoudary and Hani Mohammed al-Khoudary (Saudi Arabia)
- Opinion No. 46/2021 concerning Yahya Mohamed Elhafed Iaazza (Morocco)
- Opinion No. 72/2021 concerning Abdullah al-Howaiti (Saudi Arabia)
- Opinion No. 81/2021 concerning Paul Rusesabagina (Rwanda)
- Opinion No. 31/2022 concerning Soulaïmane Raïssouni (Morocco)

23. After examining the requests for review, the Working Group decided to maintain its opinions on the basis that none of the requests met the criteria outlined in paragraph 21 of its methods of work.

7. Reprisals against individuals who cooperate with the Working Group

24. The Working Group recalls that the Human Rights Council, in its resolutions 12/2 and 24/24, urged all States to prevent and refrain from all acts of intimidation or reprisal against those who sought to cooperate or had cooperated with the United Nations, its representatives and its mechanisms in the field of human rights, or who had provided testimony or information to them. The Working Group encourages States to take all measures possible to prevent reprisals.

8. Urgent appeals

25. During the period from 1 January to 31 December 2022, the Working Group sent 43 urgent appeals to 22 Governments and, in one case, to other actors, and 111 allegation letters and other letters to 61 Governments and, in three cases, to other actors, concerning at least 356 identified individuals.

26. The list of States and others concerned by urgent appeals is as follows: Australia (2), Bangladesh (1), Belarus (1), Canada (1), Chad (1), Egypt (1), France (1), Georgia (1), Iran (Islamic Republic of) (7), Israel (3), Malawi (1), Nicaragua (1), Nigeria (1), Russian Federation (2), Saudi Arabia (5), Serbia (1), Singapore (6), Sudan (1), Trinidad and Tobago (1), Ukraine (1), United Kingdom (2) and United Republic of Tanzania (1); and other actors (1).¹⁴

27. In conformity with paragraphs 22 to 24 of its methods of work, the Working Group, without prejudging whether a detention was arbitrary, drew the attention of each of the Governments concerned to the specific case as reported and appealed to them, often jointly with other special procedure mandate holders, to take the measures necessary to ensure that the detained persons' rights to life, liberty and physical and psychological integrity were respected.

28. When an appeal made reference to the critical state of health of certain persons or to particular circumstances, such as failure to execute a court order for release or to give effect to a previous opinion of the Working Group seeking the release of the person, the Working Group requested that all the measures necessary for the immediate release of the detained person be taken. In accordance with Human Rights Council resolution 5/2, the Working

¹⁴ The full text of urgent appeals will be made available at www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

Group integrated into its methods of work the prescriptions of the Code of Conduct for Special Procedure Mandate Holders of the Human Rights Council relating to urgent appeals and applies them.

29. During the period under review, the Working Group also sent 111 allegation letters and other letters to other actors (3), and to 56 States, namely: Algeria (1), Australia (1), Austria (1), Bangladesh (2), Belarus (3), Cambodia (1), Chad (1), Chile (1), China (4), Democratic Republic of the Congo (2), Ecuador (1), Egypt (5), El Salvador (2, including 1 other letter), Eswatini (1), France (1), Germany (1), Guatemala (2), Guinea (1), India (1), Iran (Islamic Republic of) (14), Iraq (1), Israel (3, including 1 other letter), Kazakhstan (2), Lebanon (1), Liberia (1), Libya (2), Maldives (1), Mexico (3), Nepal (1), Netherlands (Kingdom of the) (1), New Zealand (1 other letter), Pakistan (2), Panama (1), Philippines (1), Poland (2), Republic of Korea (1), Russian Federation (4), Saudi Arabia (5), Senegal (1), Somalia (2), Sri Lanka (2), Sudan (2), Sweden (1), Switzerland (1), Syrian Arab Republic (1), Tajikistan (2), Thailand (1), Trinidad and Tobago (1), Türkiye (2), Uganda (1), United Kingdom (2, including 1 other letter), United Republic of Tanzania (1), United States (3), Venezuela (Bolivarian Republic of) (2), Viet Nam (4) and Zimbabwe (1).

30. The Working Group wishes to thank those Governments that responded to its appeals and that took steps to provide it with information on the situation of the individuals concerned, especially the Governments that released such individuals. The Working Group recalls that the Human Rights Council, in paragraph 4 (f) of the annex to its resolution 5/1, encouraged all States to cooperate and engage fully with the United Nations human rights mechanisms.

C. Country visits

1. Requests for visits

31. During 2022, the Working Group sent requests for country visits to Mongolia (3 February 2022) and to Peru (2 February 2022), and reminders of its earlier requests to visit the Bahamas (24 January 2022), Costa Rica (2 February 2022), El Salvador (24 January 2022), Mexico (24 January 2022), the Republic of Korea (3 February 2022) and Saudi Arabia (4 February 2022).

2. Responses of Governments to requests for country visits

32. On 2 March 2022, the Government of Mongolia extended an invitation to the Working Group to conduct a country visit from 3 to 14 October 2022, which the Working Group accepted.

33. On 3 February 2022, the Permanent Mission of the Bahamas to the United Nations Office and other international organizations in Geneva acknowledged the Working Group's request to conduct a country visit, which had been shared with the capital. On 22 September 2022, the Working Group met with representatives of the Permanent Mission to discuss the possibility of a country visit. On 18 January 2023, the authorities of the Bahamas extended an invitation to the Working Group to conduct the visit from 27 November to 8 December 2023, which the Working Group accepted.

34. On 28 January 2022, the Government of Mexico informed the Working Group that it would not be possible to accommodate a country visit in 2022, and requested the Working Group to suggest dates for the first trimester of 2023. Following a meeting with government representatives, the Working Group sent a letter to the authorities on 4 April 2022, proposing that the visit take place during February 2023. Following the authorities' request and in order to determine the dates for the visit, the Working Group provided a provisional list of interlocutors on 20 January 2023. On 27 January 2023, the authorities requested the Working Group to suggest dates for the visit, taking into account the electoral period from October 2023 to June 2024, during which, in compliance with national electoral legislation, no visits would be possible. On 3 February 2023, the Working Group proposed the periods from 19 to 30 June and from 10 to 21 July 2023. During subsequent discussions and in order to ensure access to States holding ordinary elections from June to August 2023, the possibility of a

visit from 18 to 29 September 2023 was explored. On 23 June 2023, the Government extended its invitation for the country visit to be conducted from 18 to 29 September 2023, which the Working Group accepted.

35. In 2022, the Working Group and representatives of the Permanent Mission of Canada to the United Nations Office and other international organizations in Geneva discussed potential dates for a country visit. In a note verbale dated 6 February 2023, the authorities of Canada indicated their willingness to host a visit of the Working Group from 27 November to 8 December 2023. As the Working Group was not in a position to conduct the visit during that period, potential dates for 2024 were discussed. In a note verbale of 22 May 2023, the Government extended an invitation to the Working Group to undertake the visit from 13 to 24 May 2024, which was accepted by the Working Group.

36. On 11 January 2022, the Permanent Mission of Tunisia to the United Nations Office and other international organizations in Geneva suggested postponing the country visit that had been scheduled for 24 January to 5 February 2022, owing to the epidemiological situation in Tunisia related to COVID-19. On 21 January 2022, the Working Group indicated its availability to conduct the country visit from 7 to 25 March or from 4 to 15 July 2022. On 21 June 2022, the Permanent Mission advised the Working Group that it would be ready to accommodate a visit in October 2022. As the Working Group was not in a position to conduct the visit then, it suggested a visit in 2023.

37. In an email dated 4 April 2022, the Permanent Mission of the Republic of Korea to the United Nations Office and other international organizations in Geneva informed the Working Group that it could conduct a country visit to the Republic of Korea from 26 September to 14 October 2022, but that, depending on the COVID-19 situation at that time, visits to collective accommodation facilities such as detention centres might be limited. On 27 April 2022, the Working Group confirmed to the authorities its interest in conducting a visit at the earliest opportunity in 2023, when it would be possible to guarantee unimpeded access to places of deprivation of liberty. On 3 May 2022, the Permanent Mission noted that it would revert to the Working Group.

38. On 8 August 2022, the Permanent Mission of Peru to the United Nations Office and other international organizations in Geneva indicated that it would be pleased to extend an invitation to the Working Group to conduct a country visit during 2024.

39. On 4 November 2022, the Permanent Mission of Saudi Arabia to the United Nations Office and other international organizations in Geneva informed the Working Group that its request to conduct an official visit to the country was being considered by relevant authorities and that updates would be provided in due course.

III. Thematic issues

40. During the reporting period, the Working Group considered thematic issues raised in its jurisprudence and practice.

A. Arbitrary detention and laws on spreading disinformation

41. In addressing cases of arbitrary detention, the Working Group has noted an increase during recent years in the enactment of laws prohibiting “false news” of various forms on the Internet and social media platforms.¹⁵ At least 18 States have adopted legislation to address pandemic-related problematic information during the period from 2021 to 2023 alone.¹⁶ The Working Group has addressed numerous cases of arbitrary deprivation of liberty purportedly

¹⁵ A/HRC/47/25, para. 53.

¹⁶ International Press Institute, “Fake news regulations”, Resources to support quality journalism and defend the free flow of news during the coronavirus pandemic. Available at <http://ipi.media/covid19-media-freedom-monitoring/> (accessed on 27 July 2023).

imposed to limit the spread of disinformation.¹⁷ The use of arbitrary detention as a punitive measure for the dissemination of information is likely to grow with the increasing prevalence of social media and other Internet resources.¹⁸

42. While there is no universally accepted definition of disinformation or misinformation, the Working Group adheres to the definition used by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, whereby disinformation is false information that is disseminated intentionally to cause serious social harm, and misinformation is the dissemination of false information unknowingly.¹⁹ The unknowing dissemination of false information should never be grounds for detention.

43. Disinformation can pose threats for human rights and democratic institutions, as noted by the Human Rights Council,²⁰ the General Assembly,²¹ the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,²² and the Secretary-General.²³ However, anti-disinformation laws must not be used to prosecute journalists, researchers, activists or human rights defenders simply for the dissemination of information in the course of their work.²⁴ In particular, prohibitions on the dissemination of information based on vague and ambiguous ideas, including “false news” or “fake news”, are incompatible with international standards for restrictions on freedom of expression and should be abolished.²⁵

44. A significant number of such cases have been considered arbitrary under category II, as they resulted from the exercise of rights or freedoms such as those protected by articles 9 and 19 of the Universal Declaration of Human Rights and articles 9 and 19 of the Covenant.²⁶ Other international human rights mechanisms have noted a similar pattern.²⁷ The Working Group has frequently observed Governments attempting to justify the penalization of journalists who were critical of the Government by labelling their work as propaganda,²⁸ defamation of the State,²⁹ and dissemination of false or fabricated information.³⁰ The framing of media outlets, publishers or journalists for spreading disinformation, threatening public order or inciting unrest,³¹ solely for being critical of the Government, infringes on their right to freedom of expression and hinders the right of the broader public to seek and receive information.³²

45. A further trend related to disinformation and arbitrary detention emerged in the context of the COVID-19 pandemic, with Governments seeking to limit the spread of disinformation to protect public health and safety. While recognizing the need for legitimate measures protecting public health in the context of the COVID-19 pandemic, the Working

¹⁷ See, for example, opinions No. 7/2005, No. 19/2006, No. 50/2011, No. 48/2012, No. 7/2016, No. 58/2017, No. 44/2019, No. 65/2020, No. 11/2021 and No. 75/2021 on arbitrary detention of journalists relating to anti-disinformation laws; and opinions No. 5/2008, No. 38/2015, No. 16/2017, No. 75/2017, No. 45/2018, No. 82/2018 and No. 45/2021 on arbitrary detention of activists, lawyers, and human rights defenders relating to anti-disinformation laws. For an earlier case, see decision No. 38/1996.

¹⁸ Opinion No. 64/2021, para. 66.

¹⁹ [A/HRC/47/25](#), para. 15.

²⁰ See Human Rights Council resolution 49/21.

²¹ See General Assembly resolution 76/227.

²² See [A/HRC/47/25](#).

²³ See [A/77/287](#).

²⁴ Human Rights Committee, general comment No. 34 (2011), paras. 30 and 39–49.

²⁵ Opinion No. 25/2021, para. 60, citing the Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda (Vienna, 3 March 2017), para. 2 (a).

²⁶ See, for example, opinions No. 44/2019, No. 61/2020, No. 65/2020, No. 6/2021, No. 11/2021, No. 45/2021, No. 75/2021 and No. 83/2021.

²⁷ [CAT/C/CUB/CO/2](#), para. 20; and [A/HRC/39/16](#), paras. 24.112, 24.117, 24.132, 24.160, 24.163, 24.164, 24.167, 24.171, 24.172, 24.179, 24.181, 24.184, 24.192, 24.193, 24.198–24.201 and 24.206.

²⁸ See, for example, opinions No. 19/2006, No. 48/2012 and No. 44/2019.

²⁹ See, for example, opinion No. 58/2017.

³⁰ See, for example, opinions No. 7/2005, No. 19/2006, No. 7/2016, No. 65/2020, No. 11/2021 and No. 75/2021.

³¹ See, for example, opinions No. 19/2006 and No. 7/2016.

³² See, for example, Human Rights Committee, general comment No. 34 (2011), para. 42.

Group cautions against using the health emergency to implement too far-reaching and broad anti-disinformation legislation to curtail freedom of opinion or expression. Even in a health emergency, the deprivation of liberty, although it may be authorized by law, may still be considered arbitrary if it is premised upon legislation that is arbitrary or inherently unjust, relying, for instance, on discriminatory grounds,³³ or if there is an overly broad statute authorizing automatic and indefinite deprivation of liberty without any standard or review, or the law does not clearly specify the nature of the conduct that is unlawful.³⁴ Similarly, the United Nations High Commissioner for Human Rights has expressed alarm at the sharp rise in the use of “false news” laws to clamp down on criticism of Governments in the wake of the COVID-19 pandemic.³⁵

46. In a significant number of cases related to disinformation, the Working Group found that individuals were arbitrarily detained on a discriminatory basis under category V, owing to their status as a human rights defender, journalist or activist, or owing to their political or other opinion.³⁶ The Working Group recalls that detentions that are arbitrary under category V violate articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant.

B. Arbitrary detention and the COVID-19 pandemic

47. While acknowledging the unprecedented nature of the COVID-19 pandemic and the need for public health emergency measures to combat it, the Working Group emphasizes that the prohibition of arbitrary detention in international law is absolute and universal.³⁷ In May 2020, the Working Group adopted its deliberation No. 11, on the prevention of arbitrary deprivation of liberty in the context of public health emergencies. In the deliberation, the Working Group sets out guidance to avoid cases of arbitrary deprivation of liberty in the context of the implementation of public health emergency measures aimed at combating the COVID-19 pandemic and, *mutatis mutandis*, in the event of other public health emergencies.³⁸

48. The Working Group has identified several trends relating to arbitrary detention during the COVID-19 pandemic. It addressed numerous cases of arbitrary detention linked to advocacy and reporting activities in relation to the pandemic, where individuals were arbitrarily detained for exercising their fundamental freedoms, such as their rights to freedom of expression and freedom of assembly.³⁹ In some instances, emergency measures designed to mitigate the spread of the pandemic were used as a pretext to arbitrarily detain individuals.⁴⁰ Certain measures relied upon did not have a proper legal basis, being overly broad and vague.⁴¹

49. Some of the measures were also used to detain individuals on discriminatory grounds.⁴² Emergency powers must not be used to deprive vulnerable groups of their liberty.⁴³ Neither should the power to detain persons during public health emergencies be used to silence human rights defenders, journalists, members of the political opposition, religious leaders, health-care professionals, or any person expressing dissent or criticism of

³³ Deliberation No. 11 ([A/HRC/45/16](#), annex II), para. 22.

³⁴ *Ibid.*, paras. 6 and 10. See also [A/HRC/22/44](#), para. 63; opinions No. 41/2017, No. 52/2018 and No. 62/2018 (in particular paras. 57–59); and Human Rights Committee, general comment No. 35 (2014), para. 22.

³⁵ [A/HRC/47/25](#), para. 55.

³⁶ See, for example, opinions No. 16/2017, No. 75/2017, No. 36/2018, No. 45/2018, No. 82/2018, No. 6/2021, No. 11/2021, No. 25/2021, No. 45/2021, No. 75/2021 and No. 83/2021.

³⁷ Deliberation No. 11 ([A/HRC/45/16](#), annex II), para. 5.

³⁸ *Ibid.*, para. 4.

³⁹ Opinions No. 13/2021, para. 67; No. 63/2021, para. 80; and No. 31/2022, para. 89.

⁴⁰ See, for example, opinion No. 13/2021, para. 59.

⁴¹ Opinions No. 13/2021, para. 59, and No. 25/2021, paras. 52 and 53; and deliberation No. 11, para. 10.

⁴² Opinions No. 20/2021, para. 91, and No. 25/2021, paras. 61 and 70.

⁴³ Deliberation No. 11, paras. 26 and 27.

emergency powers or disseminating information that contradicts official measures taken to address the health emergency.⁴⁴

50. As set out below, in a significant number of cases, the Working Group observed serious violations of the rights to a fair trial and due process owing to restrictions linked to the pandemic. The right to legal assistance is fundamental to fair trial rights as it safeguards the principle of equality of arms.⁴⁵ If the exigencies of the prevailing public health emergency require restrictions on physical contact, States must ensure the availability of alternative means for legal counsel to communicate with their clients, including secured online communication or communication over the telephone, free of charge and in circumstances in which privileged and confidential discussions can take place.⁴⁶ Similar measures should be taken for judicial hearings.⁴⁷ Blanket measures restricting access to courts or legal counsel that cannot be justified, such as the outright denial of a public trial without justification,⁴⁸ could render the deprivation of liberty arbitrary.⁴⁹ Public health emergencies, such as the COVID-19 pandemic, can never be used to justify the denial of fair trial rights.⁵⁰

51. Access to the outside world is another important component for a fair trial.⁵¹ Despite the challenges posed by the pandemic, regular and meaningful family contact remains an essential safeguard for the rights of detainees,⁵² and should not be subjected to limitations that contravene the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).⁵³

52. Persons deprived of their liberty, such as prisoners and individuals in other places of deprivation of liberty, including in immigration detention, are more vulnerable to COVID-19 than the general population because of the confined conditions in which they live, in close proximity to each other over prolonged periods of time.⁵⁴ The Working Group reiterated that detention in the context of immigration is only permissible as an exceptional measure of last resort, which is a particularly high threshold to be satisfied in the context of a pandemic or other public health emergency.⁵⁵

53. All persons deprived of their liberty must be treated with humanity and dignity, including by receiving appropriate medical care.⁵⁶ During the pandemic, difficult conditions of detention and health problems of detainees were compounded by a lack of adequate medical care, contravening the Nelson Mandela Rules.⁵⁷ The Working Group has highlighted the vulnerability to COVID-19 of persons over 60 years old, women who are pregnant or

⁴⁴ Ibid., para. 22.

⁴⁵ [A/HRC/45/16](#), paras. 50–52; and United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court ([A/HRC/30/37](#), annex), principle 9 and guideline 8.

⁴⁶ Opinions No. 3/2021, paras. 83–85; No. 56/2021, para. 89; and No. 57/2021, para. 65.

⁴⁷ Deliberation No. 11, para. 21, and opinion No. 2/2022, para. 87.

⁴⁸ Opinion No. 89/2020, para. 83.

⁴⁹ Deliberation No. 11, para. 21. See also opinions No. 77/2020, paras. 79 and 80; No. 3/2021, para. 84; No. 41/2021, para. 111; No. 54/2021, para. 80; No. 31/2022, paras. 95–97; and No. 41/2022, paras. 58–60.

⁵⁰ Opinions No. 7/2021, para. 86; No. 24/2021, para. 78; and No. 53/2022, paras. 21, 22 and 74.

⁵¹ [A/HRC/39/45](#), para. 57.

⁵² Opinions No. 62/2022, para. 102; No. 53/2022, para. 94; and No. 34/2021, para. 95. See also Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex), principle 19.

⁵³ See, for example, opinion No. 42/2020, para. 96.

⁵⁴ See OHCHR, “COVID-19 guidance” (available at www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx); OHCHR and World Health Organization, “Inter-Agency Standing Committee interim guidance on COVID-19: focus on persons deprived of their liberty”, March 2020; OHCHR, “COVID-19 and the human rights of migrants: guidance”, 7 April 2020; and deliberation No. 11, footnote 2, to para. 4. See also opinions No. 35/2020, para. 104; No. 37/2021, para. 97; and No. 70/2021, para. 122.

⁵⁵ Deliberation No. 11, paras 10–17 and 23. See also opinions No. 57/2021, paras. 47 and 74, and No. 46/2022, para. 95.

⁵⁶ Covenant, art. 10 (1).

⁵⁷ Opinions No. 42/2020, para. 97; No. 73/2020, para. 52; No. 37/2021, para. 98; and No. 75/2021, paras. 77 and 80.

breastfeeding, persons with underlying health conditions and persons with disabilities,⁵⁸ while noting multiple and intersecting vulnerabilities.⁵⁹ In the context of the global COVID-19 pandemic, it called upon States to reconsider their detention.⁶⁰ The Working Group is greatly saddened by deaths in custody due to COVID-19, and recalls that it has urged Governments to prioritize the use of non-custodial measures at all stages of criminal proceedings, in the context of the pandemic.⁶¹

54. Despite the challenges posed by the COVID-19 pandemic, Governments must balance the imperative of responding to the disease with their obligation to uphold human rights and fundamental freedoms for all without distinction.

C. Deprivation of liberty of environmental human rights defenders

55. The Working Group has addressed, in past annual reports, the problematic practice of targeting and detaining human rights defenders in general, and the steady increase in communications pertaining to this phenomenon.⁶² Among these communications, the Working Group has noted a rise in the arbitrary detention of environmental human rights defenders.⁶³ The term “environmental human rights defenders” has been defined as individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna.⁶⁴ In 2016, the Special Rapporteur on the situation of human rights defenders denounced the growing risks faced by environmental human rights defenders, including threats, harassment, intimidation, arbitrary arrest, detention and even death.⁶⁵ The Human Rights Council, in its resolution No. 40/11 of 2019, expressed grave concern at the situation of environmental human rights defenders around the world, strongly condemned the killing of and all other human rights violations or abuses against environmental human rights defenders, by State or non-State actors, and stressed that such acts might violate international law.

56. The Working Group has found the detention of environmental human rights defenders to be arbitrary in a range of countries over recent years.⁶⁶ There are reports that during COVID-19, the situation with regard to such arbitrary detention worsened.⁶⁷ In some States, the detention of environmental human rights defenders along with other human rights defenders is widespread, prompting the Working Group to warn that systematic violations of the right to freedom from arbitrary arrest and detention may constitute a serious violation of international law.⁶⁸ The Working Group has observed that human rights defenders targeted by the authorities were members of a group, such as environmental defenders, whose work

⁵⁸ Deliberation No. 11, para. 15. See also opinion No. 21/2021, para. 96.

⁵⁹ Deliberation No. 12 ([A/HRC/48/55](#), annex), paras. 6 and 14, and [A/HRC/51/29](#), para. 62. See also opinions No. 34/2021, para. 96; No. 61/2021, para. 56; No. 70/2021, para. 122; and No. 40/2022, para. 96.

⁶⁰ Deliberation No. 11, para. 15. See also opinions No. 7/2022, para. 94; No. 14/2022, para. 104; No. 27/2022, para. 75; and No. 54/2022, para. 99.

⁶¹ Deliberation No. 11, paras. 10–17. See also opinions No. 57/2021, paras. 47 and 74, and No. 46/2022, para. 95.

⁶² See [E/CN.4/2000/4](#) and [A/HRC/48/55](#).

⁶³ See opinions No. 85/2020 and No. 36/2021.

⁶⁴ [A/71/281](#), para. 7.

⁶⁵ *Ibid.*, paras. 2, 38 and 39.

⁶⁶ See, for example, opinions No. 55/2015, No. 23/2017, No. 3/2020, No. 85/2020 and No. 36/2021.

⁶⁷ Observatory for the Protection of Human Rights Defenders, *Human Rights Defenders and COVID-19: The Impact of the Pandemic on Human Rights Defenders and Their Work* (Paris and Geneva, International Federation for Human Rights Leagues and World Organisation against Torture, 2022), pp. 28 and 39; and International Federation for Human Rights Leagues, “Shadow report for the review of Cambodia’s third periodic report”, paper prepared for the 134th session of the Human Rights Committee, 31 January 2022.

⁶⁸ See, for example, opinions No. 55/2015, No. 23/2017 and No. 36/2021. See also opinions No. 11/2020, No. 14/2020, No. 15/2020, No. 16/2020, No. 18/2020, No. 32/2020, No. 33/2020, No. 36/2020, No. 42/2020, No. 80/2020 and No. 82/2020.

had been repeatedly criminalized by States,⁶⁹ indicating that their detention was based on discriminatory grounds such as their political or other opinion or their status as a human rights defender.⁷⁰ Indigenous environmental human rights defenders, in particular, experience higher rates of criminalization and targeting as they engage in the defence of their rights against, inter alia, land grabbing, the industrial timber trade and large-scale development projects.⁷¹ In certain countries, Indigenous environmental human rights defenders are at a higher risk of being held in pretrial detention and subjected to longer prison sentences.⁷²

57. Recent developments regarding sustainable development and the environment have highlighted the fact that the right to a safe, clean, healthy and sustainable environment and other human rights are interdependent and interrelated, and that the former right underlies the effective realization of a number of fundamental rights.⁷³ The Working Group considers that environmental human rights defenders are pivotal actors in protecting and promoting fundamental human rights. In addition to defending and upholding the fundamental rights of others, they strive to protect the environment itself.

58. The Working Group wishes to highlight the duties of States to protect and take all necessary measures to empower environmental human rights defenders to participate in activities related to the protection and promotion of environmental human rights, as set out in article 12 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,⁷⁴ and as reflected, more broadly, in the Covenant and the Universal Declaration of Human Rights.

IV. Conclusions

59. In 2022, the Working Group continued to address the large number of submissions received, including through its regular communications procedure. The adoption of opinions was set as a priority, resulting in the adoption of a total of 88 opinions, concerning 160 persons in 50 countries.

60. The Working Group notes with concern the response rate from States under its regular communications procedure and its follow-up procedure. In particular, States provided a timely response to the Working Group's communications and requests for information in approximately 48 per cent of the cases in which it adopted an opinion in 2022. The Working Group received follow-up information from either the source or the relevant Government in approximately 50 per cent of the cases.

61. While the Working Group continues to respond to as many requests for its action as possible and to process cases in a timely and efficient manner in accordance with paragraph 16 of Human Rights Council resolution 51/8, it continues to face an ongoing backlog of cases.

62. Throughout the reporting period, the Working Group continued to explore various thematic issues to assist stakeholders in preventing arbitrary detention. This has included, in the present report, elaborating on a number of thematic topics, namely: arbitrary detention and laws on spreading disinformation; arbitrary detention and the COVID-19 pandemic; and deprivation of liberty of environmental human rights defenders.

⁶⁹ See, for example, opinions No. 3/2020 and No. 16/2020.

⁷⁰ Opinion No. 45/2016, para. 44; and [A/HRC/36/37](#), para. 49.

⁷¹ [A/71/281](#), para. 31. See also Human Rights Council resolution 40/11.

⁷² [A/HRC/46/35/Add.2](#), para. 32.

⁷³ [A/71/281](#), para. 3. See also Human Rights Council resolution 48/13, 2030 Agenda for Sustainable Development and Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

⁷⁴ General Assembly resolution 53/144, annex.

V. Recommendations

63. The Working Group reiterates its call to States to continue to increase their cooperation with regard to responses to regular and other communications, by reporting through the follow-up procedure on the implementation of the Working Group's opinions (including on the provision of appropriate remedies and reparations to victims of arbitrary detention), and by responding positively to requests for country visits.

64. The Working Group calls on States to balance the imperative of responding to public health emergencies with their obligation to uphold human rights and fundamental freedoms for all without distinction. States must not arbitrarily detain individuals in the implementation of public health emergency measures.

65. The Working Group calls on States to refrain from using anti-disinformation laws to prosecute individuals for the dissemination of information in the course of their work and to abolish prohibitions on the dissemination of information based on vague and ambiguous ideas, including "false news" or "fake news".

66. The Working Group calls on States to take all necessary measures to protect and empower environmental human rights defenders to participate in activities related to the protection and promotion of environmental human rights.

67. The Working Group urges Member States to provide adequate and predictable human resources to allow it to fulfil its mandate in an effective and sustainable manner.

68. The Working Group reiterates the call by the High Commissioner for Human Rights, made on 4 January 2023, to end arbitrary detention once and for all. The Working Group calls on Governments to take, without delay, the further steps necessary to remedy the situation of all individuals arbitrarily detained, including by ensuring their release and an enforceable right to compensation and other reparations.
