



Human Rights Council**Fifty-first session**

12 September–7 October 2022

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 2021, while continuously working in the exceptional circumstances of the global coronavirus disease (COVID-19) pandemic, the Working Group on Arbitrary Detention, under its regular procedure, adopted 85 opinions concerning the detention of 175 persons in 42 countries. It also transmitted 53 urgent appeals to 31 Governments, and in one case, to other actors, as well as 206 letters of allegation and other letters to 101 Governments and, in three cases, to other actors, concerning at least 682 identified individuals. Some States informed the Working Group of the measures taken to remedy the situations of detainees, and in multiple cases, the detainees were released.

In addition, the Working Group was pleased to be able to resume its country visits at the end of the reporting period, conducting an official visit to Maldives from 29 November to 9 December 2021.

In the report, the Working Group examines the following thematic issues: (a) secret detention; (b) arbitrary detention and the principles of effective interviewing for investigations and information-gathering; and (c) deprivation of liberty of older persons.

In its recommendations, the Working Group calls on States to refrain from any practices that may lead to de facto secret detention of individuals; to take due note of the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles) and to seek their effective implementation in practice; and to give particular consideration to the age of individuals when deciding upon the appropriateness of their detention. The Working Group also calls for increased cooperation from States, especially in relation to its requests for country visits, in relation to their responses to urgent appeals and regular communications, and for the implementation of its opinions. Furthermore, the Working Group urges Member States to provide adequate and predictable human resources in order to allow it to fulfil its mandate in an effective and sustainable manner.



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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 extended for a three-year period in Council resolution 42/22 of 26 September 2019.
2. During the period from 1 January to 31 March 2021, the Working Group was composed of Miriam Estrada-Castillo (Ecuador), Seong-Phil Hong (Republic of Korea), Mumba Malila (Zambia), Elina Steinerte (Latvia) and Leigh Toomey (Australia). As of 1 April 2021, the Working Group was composed of Miriam Estrada-Castillo (Ecuador), Priya Gopalan (Malaysia), Mumba Malila (Zambia), Elina Steinerte (Latvia) and Leigh Toomey (Australia).
3. Ms. Toomey served as Chair-Rapporteur of the Working Group from April 2020 to April 2021, and Ms. Steinerte as Vice-Chair. At the ninetieth session of the Working Group, in April 2021, Ms. Steinerte was elected as Chair-Rapporteur and Ms. Estrada-Castillo was elected as Vice-Chair.

II. Activities of the Working Group

4. During the period from 1 January to 31 December 2021, the Working Group held its ninetieth, ninety-first and ninety-second sessions. Due to the travel restrictions resulting from the global COVID-19 pandemic, the Working Group held its ninetieth session (3–12 May 2021) remotely by videoconference, as an exceptional measure. It was subsequently able to resume its in-person sessions, and held its ninety-first session (6–10 September 2021) and ninety-second session (15–19 November 2021) in Geneva.
5. In addition, the Working Group was pleased to be able to resume its country visits at the end of the reporting period, when it undertook a visit to Maldives from 29 November to 9 December 2021.¹
6. In order to facilitate outreach and ongoing information-sharing, the Working Group met remotely with States and non-governmental organizations throughout the reporting period to gather information on issues relating to arbitrary detention and to enhance the understanding of the Working Group's methods of work² and its operations. This included a virtual meeting with several non-governmental organizations on 10 May 2021 in the context of the ninetieth session. In the course of the reporting period, the Working Group also resumed in-person meetings both with States and with civil society.
7. On 29 March 2022, the Working Group co-hosted a virtual event with the Permanent Mission of France to commemorate its thirtieth anniversary. This high-level event, which was opened by the United Nations High Commissioner for Human Rights and the Permanent Representative of France to the United Nations Office in Geneva and other international organizations in Switzerland, presented an opportunity to reflect on the challenges posed by the arbitrary detention of human rights defenders and the role of the latter in the fight against this phenomenon. A variety of stakeholders, including Member States, non-governmental organizations and civil society representatives, participated in the event and contributed to the discussions. Testimonies were also heard from victims of arbitrary detention.
8. The Working Group learned with sadness that two of its former members had passed away, namely Roberto Garréton Merino, of Chile, who was a member of the Working Group

¹ See [A/HRC/51/29/Add.1](#).

² [A/HRC/36/38](#).

from 1992 to 2003 and again from 2008 to 2014, and Petr Uhl, of Czechia, who was a member of the Working Group from 1992 to 2001.

A. Study on drug policies and arbitrary detention

9. In accordance with Human Rights Council resolution 42/22, the Working Group submitted a report on its study on arbitrary detention relating to drug policies³ to the Council at its forty-seventh session, on 2 July 2021. In that study, the Working Group examines how drug policies and especially the so-called “war on drugs” often result in human rights violations and lead to arbitrary detention. It makes a number of recommendations to States and to civil society organizations, as well as to United Nations agencies and international, regional and national organizations.

10. As requested by the Council in paragraph 14 of its resolution 42/22, on 10 December 2021 the Chair-Rapporteur of the Working Group brought the study to the attention of the Commission on Narcotic Drugs as the policymaking body of the United Nations with prime responsibility for drug control matters, and she was subsequently invited to present the study to the Commission on Narcotic Drugs at its sixty-fifth session held in Vienna on 17 March 2022.

11. During 2021, the Working Group embarked upon the dissemination of the findings and recommendations made in the study, and to that end, its members have taken part in numerous events in all regions of the globe organized by a wide range of stakeholders.

12. As an example, on 29 September 2021 the Working Group took part in a virtual expert meeting on arbitrary detention and the criminalization of people who use drugs in Africa, together with the African Commission on Human and Peoples’ Rights Special Rapporteur on Prisons, Conditions of Detentions and Policing in Africa. On 27 October 2021, at the request of the United Nations Office on Drugs and Crime (UNODC) Research and Trend Analysis Branch, the Working Group provided a briefing on its study to the task team on drug-related matters. Furthermore, on 29 October 2021, the Working Group provided a briefing to the Committee on the Elimination of Discrimination against Women during its eighty-third session.

13. The Working Group intends to further its efforts in disseminating the findings of the study and stands ready to engage constructively with all States, international, regional and national organizations, civil society and all other stakeholders on the implementation of the recommendations made.

B. Handling of communications addressed to the Working Group during 2021

1. Communications transmitted to Governments

14. At its ninetieth, ninety-first and ninety-second sessions, the Working Group adopted a total of 85 opinions concerning 175 persons in 42 countries (see the table below).

2. Opinions of the Working Group

15. Pursuant to its methods of work,⁴ 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 and 42/22, 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 detained and to inform the Working Group of the steps they had taken. On the expiry of a 48-hour deadline following transmission of the opinions to the Governments concerned, the opinions were transmitted to the relevant sources.

³ [A/HRC/47/40](#).

⁴ [A/HRC/36/38](#).

Opinions adopted at the ninetieth, ninety-first and ninety-second 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>
1/2021	Egypt	No	Esraa Abdel Fattah, Solafa Magdy, Hisham Fouad, Hossam Moanis, Adel Sabry, Moataz Wednan, Badr Mohammed Badr, Mahmoud Hussein, Mohamed Ibrahim Radwan and Ismail al-Sayed Mohamed Omar Tawfik	Detention arbitrary, categories I, II and V (all 10 individuals) Detention arbitrary, category III (Messrs. Fattah, Magdy, Sabry, Radwan and Tawfik)	None
2/2021	Bahrain	Yes	Kameel Juma Mansoor Salman Hasan	Detention arbitrary, categories I, III and V	Mr. Hasan was released on 13 September 2021, as the remainder of his penalty was replaced by an alternative sentencing law scheme. (Information from the Government) Although he has been released, Mr. Hasan is still serving an alternative sentence, contradicting the calls for his unconditional release. Failure to comply with the alternative sentence places him at risk of being returned to prison, with some of the conditions imposed for more than 25 years (see para. 29 below). As the timing of the rehabilitation programme conflicts with his studies, he is at a real risk of rearrest or being forced to discontinue his education. His electronic foot bracelet recently became overheated, and Mr. Hasan feared that it would explode and put his whole family at risk. No steps taken by the Government in terms of reparations, including compensation. (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>
3/2021	Uzbekistan	No (late) ⁵	Kadyr Yusupov	Detention arbitrary, categories I and III	An expert group with representatives from various entities was established to study the opinion. It recommended that the conditions of detention of Mr. Yusupov be monitored, and the Parliamentary Ombudsman visited him in prison. A preliminary investigation was launched into the allegation that Mr. Yusupov had been injured by a cellmate. He reportedly had no complaints about his detention conditions, and his health was satisfactory. At the same time, he expressed disagreement with the court verdict and the application of disciplinary punishment on him. He also expressed a request to be transferred to an open prison. The Working Group will be kept abreast of any developments. (Information from the Government)
4/2021	Bahrain	No (two late responses)	Mohamed Ramadhan Isa Ali Husain and Husain Ali Moosa Hassan Mohamed	Detention arbitrary, categories I, II, III and V	Both individuals remain detained. Investigations showed that they had not been subjected to torture and ill-treatment. They are both receiving appropriate medical care in detention. (Information from the Government)
5/2021	Kazakhstan	No	Erzhan Elshibayev	Detention arbitrary, categories I, II, III and V	None
6/2021	Lao People's Democratic Republic	No	Houayheuag Xayabouly	Detention arbitrary, categories I, II, III and V	None

⁵ On 6 May 2021, the Government submitted another 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>
7/2021	Algeria	Yes	Karim Tabbou	Detention arbitrary, categories I, II, III and V	Mr. Tabbou remains detained, though one of the charges against him was dropped. (Information from the source)
8/2021	Israel	No	Layan Kayed, Elyaa Abu Hijla and Ruba Asi	Detention arbitrary, categories I, II, III and V	All three individuals have been released, following completion of their sentences. No steps have been taken to implement the opinion. (Information from the source)
9/2021	Burundi	No	Philbert Niyonkuru	Detention arbitrary, categories I, III and IV	None
10/2021	Cameroon	No (late)	Tsi Conrad	Detention arbitrary, categories I, II, III and V	None
11/2021	Viet Nam	Yes	Le Huu Minh Tuan	Detention arbitrary, categories I, II, III and V	None
12/2021	Nicaragua	No	Celia Cruz/Amílcar José Cerda Cruz	Detention arbitrary, categories I, II, III and V	Ms. Cruz was released, although the Supreme Court confirmed her sentence. No reparations have been provided or investigation undertaken. (Information from the source)
13/2021	Cuba	Yes	Keilylli de la Mora Valle	Detention arbitrary, categories I, II, III and V	None
14/2021	Mexico	Yes	Verónica Razo Casales and Erik Razo Casales	Detention arbitrary, categories I and III	Whereas Mr. Razo has been released, Ms. Razo was sentenced to 25 years' imprisonment, extending her detention, and there is an ongoing investigation into possible human rights violations of the detainees. The opinion was published in the national gazette. (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>
15/2021	Iran (Islamic Republic of)	Iran (Islamic Republic of) (no) ⁶	Nasibe Shamsaei	Detention arbitrary, categories I, II, III and V (Iran (Islamic Republic of))	None
	Türkiye	Türkiye (yes)		Detention not arbitrary (Türkiye)	
16/2021	Nigeria	No	Solomon Musa Tarfa, Mercy Solomon Tarfa and 16 minors whose names are known to the Working Group	Detention arbitrary, categories I and V (all individuals) Detention arbitrary, category III (Solomon Musa Tarfa)	None
17/2021	Australia	Yes	Mirand Petri	Detention arbitrary, categories II, IV and V	None
18/2021	Somalia	No	Mohamed Abdiwahaab Nuur	Detention arbitrary, categories I, II, III and V	No action has been taken to implement the opinion. Mr. Nuur remains in exile. Officials who detained him have allegedly threatened to kill him if he returns home. (Information from the source)
19/2021	United Republic of Tanzania	No	Theodory Faustine Giyan	Detention arbitrary, categories I and III	None
20/2021	Uganda	Yes	Douglas Tumuhimbise, Andrew Kibalama, Saddam Kateregga, Raj Jjuuko, Kelvin Kugonza, Denis Ssamula, Abbey Gwanvu, Henry Mukiibi, Kareem Yiga, Harris Tevin Kifuba, Jabel Tushabomwe, Ivan Kawooya, Ashiraf Walugembe, Jackson Mayanja, James Tendibwa, Mark Muhereza, Joel Oketch, Ronald Ssenyonga and Rodney Sheema	Detention arbitrary, categories I, III and V	None

⁶ On 1 June 2021, 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>
21/2021	India	No	Gokarakonda Naga Saibaba	Detention arbitrary, categories I, II, III and V	None
22/2021	Uzbekistan	No	Alisher Achildiev	Detention arbitrary, categories I and III	None
23/2021	Belarus	Yes	Sergey Tihanovski	Detention arbitrary, categories I, II, III and V	None
24/2021	United States of America	No	Steven Donziger	Detention arbitrary, categories I, III and V	On 1 October 2021, Mr. Donziger was sentenced to the maximum penalty of six months' imprisonment, which he began serving on 27 October 2021. (Information from the source)
25/2021	China	Yes	Zhan Zhang, Mei Chen and Wei Cai	Detention arbitrary, categories I, II, III and V	Ms. Zhang remains detained, while Mr. Chen and Mr. Cai were released from detention in August 2021, after Wenyuhe Court in Beijing's Chaoyang District took into account the time they had already spent in pretrial detention (one year and three months) for "picking quarrels and provoking trouble". (Information from the source)
26/2021	Comoros	No	Saïd Ahmed Saïd Tourqui	Detention arbitrary, categories I, II, III and V	None
27/2021	Iran (Islamic Republic of)	No	Kamran Ghaderi	Detention arbitrary, categories I, III and V	None
28/2021	Venezuela (Bolivarian Republic of)	Yes	Luis Javier Sánchez Rangel	Detention arbitrary, categories I and III	None
29/2021	Iran (Islamic Republic of)	Yes	Aras Amiri	Detention arbitrary, categories I, II, 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>
30/2021	China	No	Ding Jiayi, Zhang Zhongshun and Dai Zhenya	Detention arbitrary, categories I, II, III and V	Mr. Ding has been held under criminal arrest at the Linshu Detention Centre in the city of Linyi, Shandong Province, since June 2020. Linyi Municipal Intermediate People's Court advised that the trial would commence soon, although the exact date is pending. Mr. Zhang and Mr. Dai were released on bail on 18 June 2020. They must report their movements to the authorities. (Information from the source)
31/2021	Democratic Republic of the Congo	No	Fis Murhanzi	Detention arbitrary, categories I, III and V	None
32/2021	United States of America and United Arab Emirates	No	Ravil Mingazov	Detention arbitrary, categories I, III and V	None
33/2021	Kazakhstan	No (late)	Azamat Umbetaliyev, Beket Mynbasov, Samat Adilov, Zhuldyzbek Taurbekov, Zhasulan Iskakov, Nazim Abdrakhmanov, Ernar Samatov and Bolatbek Nurgaliyev	Detention arbitrary, categories I, II, III and V	None

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34/2021	Saudi Arabia	Yes	Mohammed Saleh Al Khoudary and Hani Mohammed Al Khoudary	Detention arbitrary, categories I, III and V ⁷	On 28 December 2021, the appeal court affirmed the judgment of guilty against the two men and lowered their sentences to six years, with the possibility of release after three years (Mohammed Al Khoudary) and to three years with release and immediate deportation from Saudi Arabia (Hani Al Khoudary). On 6 April 2022, the Supreme Court affirmed the appeal court's decision. The Government has not complied with the opinion. The two men have not been released, nor have they been provided with adequate health care to address their medical needs, and the health of 84-year-old Mohammed Al Khoudary continues to deteriorate. (Information from the source)
35/2021	Mexico	Yes	Juana Alonzo Santizo	Detention arbitrary, categories I, III and V	None
36/2021	Viet Nam	Yes	Nguyễn Năng Tĩnh	Detention arbitrary, categories I, II, III and V	None
37/2021	Pakistan	No	Muhammad Ismail	Detention arbitrary, categories I, II, III and V	None
38/2021	Türkiye	Yes	Cihan Erdal	Detention arbitrary, categories I and III	Mr. Erdal was conditionally released pending trial on 15 June 2021. However, the Government has still not lifted the juridical restrictions placed on him. (Information from the source)

⁷ On 19 April 2022, the Government of Saudi Arabia submitted a request for review of opinion No. 34/2021, 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>
39/2021	Ecuador	Yes	Jorge Glas Espinel	No conclusion possible as to the arbitrariness of the detention. Case kept under review, without prejudice, in accordance with paragraph 17 (c) of the Working Group's methods of work	
40/2021	Viet Nam	Yes	Pham Doan Trang	Detention arbitrary, categories I, II, III and V	None
41/2021	Cuba	Yes	Denis Solís González and Luis Robles Elizástegui	Detention arbitrary, categories I, II, III and V (Mr. Solís González) Detention arbitrary, categories I, II and V (Mr. Robles Elizástegui)	Mr. Elizástegui Robles was sentenced to five years' imprisonment. Mr. Solís González was released on 11 July 2021, after having served more than the time for which he had been sentenced. He was then forced to leave Cuba in late November 2021 (under threats of further persecution if he refused). He is currently facing a difficult situation in the country where he is requesting asylum, since he has no means of supporting himself there. (Information from the source)
42/2021	Egypt	No	Hisham Abdelaziz Gharib and Bahaeldin Ibrahim Nemaalla Elsayed	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. Messrs. Gharib and Elsayed remain detained. Their detention has been renewed twice since the adoption of the opinion. (Information from the source)
43/2021	Mexico	Yes	Adrián Gómez, Germán López, Abrahám López, Juan de la Cruz and Marcelino Ruiz	Detention arbitrary, categories I, III and V	Mr. Gómez was released on 7 September 2021 after a judge granted him an <i>amparo</i> ruling, due to violations of due process and lack of evidence against him. (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>
44/2021	Panama	Yes	Mauricio Cort y García	Detention arbitrary, categories I and III	None
45/2021	Egypt	No	Mohamed Hassan Mohamed Salaheldin el-Baker, Mahinour Mohamed Abdel-Salam Mohamed el-Masry, Amr Mohamed Adel Imam Mohamed Mostafa and Hoda Abdel Moneam Abdel Aziz Hassan	Detention arbitrary, categories I, II and V (all individuals) Detention arbitrary, category III (Messrs. El-Baker, Mostafa and Hassan)	No action taken to implement the opinion regarding Messrs. El-Baker and Mostafa and Ms. Hassan. Ms. El-Masry was released on 18 July 2021 following a mass release ahead of the religious celebration of Eid al-Adha and pending investigations into new accusations. Her passport was seized by authorities at the airport, and she is unable to travel as all her attempts to get a new passport have failed. No steps have been taken by the Government in terms of reparations, including compensation. (Information from the source)
46/2021	Morocco	Yes	Yahya Mohamed Elhafed Iaazza	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. (Information from the source)
47/2021	Qatar	No	Sheikh Talal bin Abdulaziz bin Ahmed bin Ali Al Thani	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. Sheikh Talal bin Abdulaziz bin Ahmed bin Ali Al Thani has recently been hospitalized and has had to undergo surgery. (Information from the source)
48/2021	Russian Federation and Tajikistan	Russian Federation (yes) Tajikistan (no) (late)	Sharofiddin Gadoev	Detention arbitrary, categories I, II, III and V	Mr. Gadoev was never arbitrarily detained in Tajikistan, and no action has thus been taken to implement the opinion. (Information from the Government of Tajikistan)

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49/2021	Venezuela (Bolivarian Republic of)	Yes	Luis Humberto de la Sotta Quiroga, Ruperto Molina Ramírez, Abraham Américo Suárez Ramos, Adrián Leonardo de Gouveia de Sosa, Ricardo Efraín González Torres, Carlos Gustavo Macsotay Rauseo and Elías José Noriega Manrique	Detention arbitrary, categories I and III	Mr. Quiroga remains detained. (Information from the source)
50/2021	Belarus	Yes	Raman Pratasevich	Detention arbitrary, categories I, II, III and V	None
51/2021	United Arab Emirates	Yes	Mehmet Ali Öztürk	Detention arbitrary, categories I, III and V	On 26 November 2021, Mr. Öztürk was granted a pardon by the Head of State releasing him, and the following day, he left the United Arab Emirates to return to his home country. He does not require any compensation, because the conviction and trial procedures were carried out in accordance with correct legal controls and were not tainted by any errors, in line with legal rules. He was not subjected to arbitrary detention, or placed in solitary confinement, nor was he tortured or his physical integrity violated. (Information from the Government)
52/2021	Venezuela (Bolivarian Republic of)	Yes	Juan Bautista Guevara Rodríguez, Otoniel José Guevara Pérez and Rolando Jesús Guevara Pérez	Detention arbitrary, categories I and III	None

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53/2021	United Arab Emirates	Yes	Ahmed Majed Ahmed al-Atoum	Detention arbitrary, categories I, II and III	Mr. Al-Atoum is not being held arbitrarily, but on the basis of having committed a crime punishable by law. He does not require any compensation, as the conviction and trial procedures were carried out in accordance with correct legal controls and were not tainted by any errors, in line with legal rules. (Information from the Government)
54/2021	China	Yes	Zhang Baocheng	Detention arbitrary, categories I, II, III and V	None
55/2021	Venezuela (Bolivarian Republic of)	Yes	Juan Carlos Marrufo Capozzi and María Auxiliadora Delgado Tabosky	Detention arbitrary, categories I and III	None
56/2021	Russian Federation	Yes	Server Mustafayev	Detention arbitrary, categories I, III and V	No action taken to implement the opinion. On 14 March 2022, the Military Appeal Court issued its judgment upholding his conviction and sentence. It found that the conviction did not violate his fundamental human rights, and that the opinion did not include evidence of fair trial violations committed in the proceedings. His conditions of detention have deteriorated even further, and through his ongoing arbitrary detention, the Government is continuing to perpetuate the violations identified by the Working Group. (Information from the source)
57/2021	India	No	Stan Swamy	Detention arbitrary, categories I, II 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>
58/2021	Nicaragua	No	José Santos Sánchez Rodríguez	Detention arbitrary, categories I, II, III and V	None
59/2021	Saudi Arabia	No	Salman bin Abdulaziz bin Salman Al Saud and Abdulaziz bin Salman bin Mohammad Al Saud	Detention arbitrary, categories I, III and V	None
60/2021	Israel	No	Amal Nakhleh	Detention arbitrary, categories I, III and V	Mr. Nakhleh has been released from custody, as his administrative detention order was not renewed. (Information from the source)
61/2021	Israel	No	Jamal Afif Suleiman al-Niser	Detention arbitrary, categories I, III and V	None
62/2021	Libya	No	Abdelhakim Imbarak Muhammad Ali and Sulaiman Muhammad Salim Sulaiman	Detention arbitrary, categories I and III (Mr. Ali) Detention arbitrary, categories I, III and V (Mr. Sulaiman)	None
63/2021	Cuba	Yes	Maykel Castillo Pérez	Detention arbitrary, categories I, II, III and V	None
64/2021	Thailand	No	Anchan Preelerd	Detention arbitrary, categories I, II and III	None
65/2021	Burundi	No	Fabien Banciryanino	Detention arbitrary, categories I, II, III and V	None
66/2021	China	Yes	Zhang Haitao	Detention arbitrary, categories I, II, III and V	Mr. Zhang remains in Shaya County Prison in Aksu Prefecture, Xinjiang Uighur Autonomous Region, serving the seventh year of his 19-year sentence. Authorities have not allowed the family to contact him directly since an in-person visit in April 2018, leading to serious concerns about his well-being. (Information from the source)

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67/2021	Mexico	No	Hugo Martínez Gorostieta	Detention arbitrary, categories I, III and V	None
68/2021	Australia and Nauru	Australia (yes) Nauru (no)	Said Said	Detention arbitrary, category II (Nauru) Detention arbitrary, categories I, II, IV and V (Australia)	None
69/2021	Australia	Yes	Navanitharasa Sivaguru	Detention arbitrary, categories I, II, IV and V	None
70/2021	Iraq	No	Robert Pether and Khalid Radwan	Detention arbitrary, categories I, III and V	None
71/2021	Iraq	No	Sherwan Amin Naou, Kahdar Hammad Amin Zebari, Ayaz Karam Rachid, Hariwan Issa Mohammad and Mulla Shafan Saeed Omar Brushki	Detention arbitrary, categories I, II, III and V	None
72/2021	Saudi Arabia	Yes	Abdullah al-Howaiti	Detention arbitrary, categories I and III	On 2 March 2022, Mr. Al-Howaiti was sentenced to death for a second time after his original conviction was overturned by the Supreme Court in 2021. He subsequently had a mental health crisis and was placed in solitary confinement. He went on a hunger strike on 8 March 2022 and refused to take his blood pressure medication, leading him to collapse in prison. On 13 June 2022, the Court of Appeal upheld his death sentence. If this is upheld by the Supreme Court as well, Mr. Al-Howaiti will be at risk of imminent execution. (Information from the source)
73/2021	Rwanda	Yes	Julienne Sebagabo	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>
74/2021	Venezuela (Bolivarian Republic of)	Yes	Emirlendris Benítez	Detention arbitrary, categories I, III and V	None
75/2021	Cambodia	Yes	Ros Sokhet	Detention arbitrary, categories I, II, III and V	Mr. Sokhet was released from Prey Sar Prison on 28 December 2021 after having served his full 18-month sentence. No action has been taken to implement the opinion. The “incitement” legislation at issue in his case is reportedly continuously used to prosecute and convict individuals expressing views critical of the Government. (Information from the source)
76/2021	China	Yes	Zhang Shaojie	Detention arbitrary, categories I, II and III	Mr. Zhang is serving the ninth year of a 12-year sentence. He remains at Zhengzhou Municipal Prison. (Information from the source)
77/2021	Bahrain	Yes	AbdulNabi AbdulHasan Ebrahim Khalil	Detention arbitrary, categories I, II, 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>
78/2021	Tajikistan	Yes	Gaffor Rakhmonovich Mirzoev	Detention arbitrary, category III	Mr. Mirzoev remains in a Dushanbe pretrial detention facility nearly 18 years after his arrest, and despite the opinion recommending his release. No investigation is known to have been conducted enquiring into the circumstances that led to his arbitrary detention. No information has been received on whether the opinion has been widely disseminated and no steps have been taken to improve his family's telephone access to him. He is an elderly man in the twilight of his life who should be reunited with his family. He has never seen or spoken to several of his grandchildren, has not seen his son since he was 15 years old, and has lost his livelihood. (Information from the source)
79/2021	Egypt	No	Zyad El-Elaimy and Louaya Sabri Alshahat Abdelhalim	Detention arbitrary, categories I, II, III and V	None
80/2021	India	Yes	Jagtar Singh Johal	Detention arbitrary, categories I, II, III and V	None
81/2021	Rwanda	No	Paul Rusesabagina	Detention arbitrary, categories I, II, III and V	Mr. Rusesabagina's health continues to deteriorate, and prison authorities have ignored his complaints and appeals for specialized medical care to avoid further deterioration. (Information from the source)
82/2021	Viet Nam	Yes	Đinh Thị Thu Thủy	Detention arbitrary, categories I, II, 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>
83/2021	Egypt	No	Ahmed Samir Santawy	Detention arbitrary, categories I, II, III and V	No action taken to implement the opinion. Mr. Santawy's retrial is ongoing. He is reportedly subjected to poor conditions and abuse at Tora Prison and went on a 10-day hunger strike at the end of March 2022. (Information from the source)
84/2021	Bahrain	Yes	Ali Naser Ahmed Naser, Ali Hasan Mansoor Yusuf Marzooq Al-Jamri, Ali Mohamed Hasan Ali Husain, Sayed Redha Baqer Mahdi Mohsen Fadhul and Sayed Falah Hasan Naser Mohsen Fadhul	Detention arbitrary, categories I and III (Messrs. Al-Jamri, Husain and Sayed Redha Fadhul) Detention arbitrary, categories I, III and V (Messrs. Naser and Sayed Falah Fadhul)	None
85/2021	Iran (Islamic Republic of)	No ⁸	Anoosheh Ashoori	Detention arbitrary, categories I, III and V	Mr. Ashoori has been released from prison. (Information from the source)

⁸ On 11 January 2022, the Government submitted a late response, after the adoption of the opinion.

3. Follow-up procedure

16. The table above shows information received by the Working Group as of 30 June 2022 pursuant to the follow-up procedure adopted by the Working Group at its seventy-sixth session, held in August 2016.

17. 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

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

- Nazanin Zaghari-Ratcliffe (opinion No. 28/2016, Islamic Republic of Iran) – released from prison on 16 March 2022
- Three minors (opinion No. 61/2016, Saudi Arabia) – released after their death sentences had been commuted
- Braulio Jatar (opinion No. 37/2017, Bolivarian Republic of Venezuela) – on 10 September 2021, acquitted of all charges and unconditionally released
- Germain Rukuki (opinion No. 37/2019, Burundi) – on 4 June 2021, the appeal court reduced his sentence from 32 years to one year, and he was released on 21 June 2021
- Zuhair Abdulhadi Haj al-Mahmeed (opinion No. 54/2020, Kuwait) – released on 14 November 2021
- Julien Engonga Owono and Geurge Ndemengane Ekoh (opinion No. 64/2020, Gabon) – released provisionally on 19 May and 29 June 2021, respectively
- Kameel Juma Hasan (opinion No. 2/2021, Bahrain) – released on an alternative sentencing scheme
- Cihan Erdal (opinion No. 38/2021, Türkiye) – conditionally released pending trial, on 15 June 2021
- Adrián Gómez (opinion No. 43/2021, Mexico) – released on 7 September 2021, after a judge granted him an *amparo* ruling due to violations of due process and lack of evidence against him
- Mahinour Mohamed Abdel-Salam Mohamed el-Masry (opinion No. 45/2021, Egypt) – released on 18 July 2021 following a mass release ahead of the religious celebration of Eid al-Adha and pending investigations into new accusations
- Mehmet Ali Öztürk (opinion No. 51/2021, United Arab Emirates) – released on 26 November 2021, as he was granted a pardon by the Head of State, and subsequently returned to his home country
- Amal Nakhleh (opinion No. 60/2021, Israel) – released from custody as his administrative detention order was not renewed by the authorities
- Anoosheh Ashoori (opinion No. 85/2021, Islamic Republic of Iran) – released from prison

19. The Working Group expresses its gratitude to those Governments that released detainees who had been the subject of its opinions, although it notes that this has not always been in pursuit of the implementation of its opinions. However, 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

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

21. In a note verbale dated 3 August 2021, the Government of Viet Nam rejected opinion No. 81/2020 concerning Ho Van Hai and expressed regret that the objective and verified information provided by Viet Nam had not been considered appropriately. It added that Mr. Ho had been released from prison on 17 April 2020, following a humanitarian policy, before the completion of his sentence, and that he was now at his residence, under a two-year probation process.

22. In a note verbale dated 7 October 2021, the Government of Kuwait provided comprehensive information and clarifications about the medical care provided to Zuhair Abdulhadi Haj al-Mahmeed, the subject of opinion No. 54/2020. This included a detailed table containing the latest developments and data about his medical care.

23. In a note verbale dated 22 October 2021, the Government of Belarus noted that it did not bind itself to the politically motivated opinion No. 23/2021 concerning Sergey Tihanovski. The Government added that the opinion had not taken the position of Belarus into account, and that the allegations of the source had not been subjected to critical and objective scrutiny by the Working Group.

24. In a note verbale dated 2 March 2022, the Government of Gabon provided further information regarding the implementation of opinion No. 64/2020 concerning Brice Laccruche Alihanga, Grégory Laccruche Alihanga, Patrichi Christian Tanasa, Julien Engonga Owono and Geaurge Ndemengane Ekoh. The Government informed the Working Group that Mr. Owono and Ms. Ekoh had both been provisionally released, on 19 May and 29 June 2021 respectively. The three other individuals remain in detention.

25. In a note verbale dated 21 June 2022, the Government of Rwanda explained that it had not been availed of the opportunity to respond in a timely manner to the allegations made, and addressed by the Working Group, in opinion No. 81/2021. The Government recorded its objections to the findings in this opinion, requested this to be noted in the annual report and undertook to submit its views separately. The Working Group reiterates that, as explained in its letter of 24 June 2022 to the Government, it followed the accepted practice stipulated in its methods of work on the means of communicating to the Government the submissions received with regard to the case. The Working Group received the confirmation of the receipt of the communication, and the Government was afforded the same time for responding – including an opportunity to seek an extension of the set deadline – as all other States, and as set out in the Working Group's methods of work.

6. Requests for review of opinions adopted

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

- Opinion No. 26/2019, concerning Abdelkarim Mohamed Al-Hawaj and Mounir Ahmad Adam (Saudi Arabia)
- Opinion No. 56/2019, concerning Abbas bin Haiji Al-Hassan (Saudi Arabia)
- Opinion No. 71/2019, concerning Issa al-Nukheifi, Abdulaziz al-Shubaili and Issa al-Hamid (Saudi Arabia)
- Opinion No. 33/2020, concerning Loujain Alhathloul (United Arab Emirates and Saudi Arabia)
- Opinion No. 43/2020, concerning Serikzhan Bilash (Kazakhstan)
- Opinion No. 52/2020, concerning Ali Salem Bujmāa (Ali Sâadouni) (Morocco)

- Opinion No. 60/2020, concerning Maria Lazareva (Kuwait)
- Opinion No. 68/2020, concerning Walid El Batal (Morocco)
- Opinion No. 86/2020, concerning Sheikh Mohammad bin Hassan Al Habib (Saudi Arabia)
- Opinion No. 92/2020, concerning Muhammad al-Faraj (Saudi Arabia)
- Opinion No. No. 38/2021, concerning Cihan Erdal (Türkiye)

27. 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 subjects of the opinions of the Working Group

28. The Working Group notes with grave concern that it continues to receive information, including in the context of its follow-up procedure, about reprisals suffered by individuals who have been the subject of an urgent appeal or an opinion or whose cases have given effect to a recommendation of the Working Group. The Working Group emphasizes that any such reprisals are absolutely unacceptable and calls upon all States to seize such actions immediately.

29. During the reporting period, the Working Group received allegations of reprisals against:

- Kameel Juma Mansoor Salman Hasan (opinion No. 2/2021, Bahrain)⁹
- Brenda Quevedo (opinion No. 45/2020, Mexico)¹⁰
- Sayed Nazar Naama Baqquer Ali Yusuf Alwadaei (opinion No. 51/2018, Bahrain)¹¹

30. In its resolutions 12/2 and 24/24, the Human Rights Council called upon Governments 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 human rights mechanisms, or who had provided testimony or information to them. The Working Group encourages Member States to take all measures possible to prevent reprisals.

8. Urgent appeals

31. During the period from 1 January to 31 December 2021, the Working Group sent 53 urgent appeals to 31 Governments and, in one case, to other actors, and 206 allegation letters

⁹ On 13 September 2021, Mr. Hasan was released, among 30 prisoners found eligible for alternative sentencing in accordance with Decree Law No. 24 of 2021. The family, including Mr. Hasan's mother, Najah Yusuf (the subject of opinion No. 31/2019), subsequently reported being pressured by authorities to contribute to an ongoing whitewashing campaign surrounding the alternative sentencing law. When the family refused to cooperate, Ms. Yusuf and Mr. Hasan were summoned to the alternative sentencing centre. Upon arrival, they were given new alternative sentencing forms to sign, whereby Mr. Hasan's penalties of electronic monitoring, being prohibited from contacting media personnel or individuals or groups who are in violation of local law, and pledging not to attend political, cultural and religious assemblies, were all extended to a period of 25 years, 7 months and 11 days.

¹⁰ The source has presented allegations of criminal investigations, and other acts of intimidation and retaliation for cooperating with the United Nations in the field of human rights in Mexico, against Salvador Leyva Morelos Zaragoza, Verónica Jazmín Berber Calle and Elvira Claudia Mejía Hernández, in particular for having acted as defenders of the human rights of Brenda Quevedo before the Working Group and for having carried out actions aimed at the implementation of opinion No. 45/2020.

¹¹ Mr. Alwadaei reportedly remains imprisoned in Jau Prison, Bahrain, serving an 11-year sentence in reprisal for the activism of his brother-in-law, Sayed Ahmed Alwadaei, despite the fact that in its opinion No. 51/2018, the Working Group found his detention to be arbitrary and called for his immediate release. Mr. Alwadaei continues to be subjected to medical negligence and was recently placed in solitary confinement for four days as a punishment after he demanded to be taken to the prison clinic as he was suffering from severe neck pain.

and other letters to 101 Governments and, in three cases, to other actors, concerning at least 682 identified individuals.

32. The list of countries concerned by urgent appeals is as follows: Algeria (1), Belarus (1), Bosnia and Herzegovina (1), Canada (1), Chile (1), China (2), Comoros (1), Egypt (4), France (1), India (1), Iran (Islamic Republic of) (5), Iraq (1), Israel (2), Kenya (1), Libya (1), Lithuania (1), Madagascar (1), Malaysia (2), Myanmar (1), Netherlands (1), Nigeria (2), Pakistan (2), Russian Federation (1), Saudi Arabia (6), Singapore (1), Switzerland (1), Tajikistan (1), Tunisia (3), Türkiye (1), United Arab Emirates (1) and United States of America (3);¹² and other actors (1).

33. In conformity with paragraphs 22–24 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.

34. When an appeal made reference to the critical state of health of certain persons or to particular circumstances, such as a 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 measures necessary for the immediate release of the detained person be taken. In accordance with Human Rights Council resolution 5/2, the Working 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.

35. During the period under review, the Working Group also sent 206 letters of allegation and other letters to other actors (3), and to 101 States, namely Afghanistan (1), Albania (1), Algeria (7 allegation letter and 1 other letter), Australia (1), Austria (1), Azerbaijan (1), Bahrain (2), Bangladesh (3), Belarus (3), Belgium (1), Bosnia and Herzegovina (1), Brazil (1 other letter), Burundi (2), Cabo Verde (1), Cambodia (2), Cameroon (1), Canada (1), Central African Republic (1), Chad (1), Chile (1), China (7), Colombia (1), Congo (1), Cuba (3), Cyprus (1), Democratic Republic of the Congo (1), Denmark (1), Egypt (5), Eritrea (2), Estonia (1), Ethiopia (1), Finland (1), France (1 allegation letter and 1 other letter), Georgia (1), Germany (1), Ghana (1 allegation letter and 1 other letter), Guatemala (2), Guinea (2), Haiti (1 other letter), Honduras (2), India (5), Indonesia (1), Iran (Islamic Republic of) (10), Israel (4), Japan (1 other letter), Kazakhstan (2), Kuwait (1), Kyrgyzstan (2), Lao People's Democratic Republic (1), Lebanon (2), Libya (1), Malaysia (2), Maldives (1), Mali (1), Mexico (4), Morocco (4), Mozambique (1), Myanmar (1), Netherlands (1), Nicaragua (4), Niger (1), North Macedonia (1), Norway (1), Pakistan (3), Peru (2), Philippines (3), Poland (1), Portugal (1), Qatar (1), Republic of Korea (1), Romania (1), Russian Federation (5), Rwanda (1), Saudi Arabia (5), Senegal (1), Serbia (1), Somalia (2), South Africa (1), Spain (2), Sri Lanka (2 allegation letters and 1 other letter), Sudan (1), Sweden (1), Switzerland (3), Tajikistan (2), Thailand (2), Trinidad and Tobago (1), Tunisia (3), Türkiye (4), Turkmenistan (1), Uganda (3), Ukraine (2), United Arab Emirates (2), United Kingdom of Great Britain and Northern Ireland (2), United Republic of Tanzania (3), United States of America (4), Uzbekistan (1 allegation letter and 1 other letter), Venezuela (Bolivarian Republic of) (4), Viet Nam (2), Yemen (1) and Zimbabwe (1), as well as the State of Palestine (1).

36. 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, in paragraph 4 (f) of its resolution 5/1, the Human Rights Council requested all States to cooperate and engage fully with the United Nations human rights mechanisms.

¹² The full text of urgent appeals will be available at www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.

C. Country visits

1. Requests for visits

37. During 2021, the Working Group sent a country visit request to El Salvador (25 August 2021) and to Comoros (12 November 2021), and reminders of its earlier requests to visit Canada (12 July 2021), Cuba (24 August 2021), India (24 August 2021) and Saudi Arabia (24 August 2021).

2. Responses of Governments to requests for country visits

38. On 17 May 2021, the Government of Botswana extended an invitation to the Working Group to conduct a visit to the country in the second half of 2022. On 15 September 2021, a letter was sent to the Permanent Mission, proposing that the country visit, for a duration of 10 working days, could take place either from 25 April to 6 May 2022 or from 9 to 20 May 2022. The country visit has subsequently been scheduled from 4 to 15 July 2022.

39. On 2 June 2021, the secretariat met with the Minister of Labour of El Salvador and the Permanent Representative of El Salvador to the United Nations Office and other international organizations in Geneva. At the meeting, the Working Group was invited to undertake a country visit to El Salvador at its earliest convenience. On 25 August 2021, the Working Group sent a letter in which it proposed conducting the visit from 8 to 19 November 2021. On 3 September 2021, the Permanent Mission sent a note verbale advising that El Salvador would not be able to accommodate the visit in 2021, and that the authorities would consider the visit request in the future.

40. In a meeting held on 30 June 2021 with the Permanent Mission of Türkiye, the Chair-Rapporteur of the Working Group reiterated its interest in conducting a visit to Türkiye for a duration of 10 working days. The Permanent Mission subsequently indicated that the visit could not take place in 2021, and discussions as to the timing and modalities of such visit are still ongoing.

41. Following a meeting on 5 July 2021 between the Chair-Rapporteur of the Working Group and the Permanent Representative of Canada to the United Nations Office and other international organizations in Geneva, the Working Group sent a letter on 12 July 2021, indicating that it looked forward to continuing the dialogue with the Permanent Mission in order to find a mutually agreeable timing for a country visit, if possible, during 2021. Discussions as to the timing of such visit are still ongoing, and possible dates for 2023 are being considered.

42. In an email message of 25 August 2021, the Permanent Mission of India acknowledged receipt of the Working Group's request for an official country visit to India. The Permanent Mission noted that the COVID-19 situation in India was still evolving, and that it would revert on the request once the situation in India had stabilized.

43. On 22 September 2021, the Chair-Rapporteur of the Working Group met the Permanent Representative of Maldives to the United Nations Office and other international organizations in Geneva to discuss a country visit in 2021, noting that visit dates for Maldives had been agreed upon just before the eruption of the global COVID-19 pandemic. The Working Group notes with great appreciation that the Government of Maldives subsequently extended an invitation, and the Working Group was able to visit Maldives from 29 November to 10 December 2021.¹³

44. Following a meeting between the Chair-Rapporteur of the Working Group and the Permanent Representative of Tunisia to the United Nations Office in Geneva on 22 September 2021, the Working Group sent a letter to the Permanent Mission on 24 September 2021, confirming the interest of the Working Group in conducting a country visit to Tunisia in the first half of 2022. In a letter dated 4 October 2021, the Permanent Mission informed the Working Group that the authorities had accepted its proposal of organizing a visit to Tunisia for January 2022. It was subsequently agreed that the visit could take place from 24 January to 4 February 2022. On 11 January 2022, the Permanent Mission informed the

¹³ See [A/HRC/51/29/Add.1](#).

Working Group that in view of the latest developments in the epidemiological situation related to COVID-19 in Tunisia and with a view to preparing for the visit and holding it in the best possible conditions, the Tunisian authorities suggested postponing the visit to a later mutually agreeable date. The Working Group will continue to discuss with the Tunisian authorities in order to determine possible dates for a future country visit.

III. Thematic issues

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

A. Secret detention

46. In 2010, the Working Group was one of the four special procedure mandate holders to produce a unique joint study on global practices in relation to secret detention in the context of countering terrorism.¹⁴ The Working Group welcomes the publication of the recent follow-up report to that joint secret detention study by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.¹⁵ While the Working Group endorses the findings of the Special Rapporteur as expressed in the follow-up report, it also deems it important to follow up on its own previous annual report in which it addressed the phenomenon of forcible removals, extraditions or deportations of individuals from one State to another, effectively circumventing the extradition process required by the rule of law and safeguards against arbitrary detention.¹⁶

47. As the Working Group has stated, such practices inherently violate international human rights law and lead to arbitrary deprivation of liberty. They also lead to de facto secret and incommunicado detention and fundamentally place individuals outside the protection of the law. During the present reporting period, the Working Group has regrettably observed that the practices of such forcible transfers¹⁷ as well as of secret and incommunicado detention¹⁸ and even of secret detention by proxy¹⁹ have continued.

48. The Working Group reiterates that the practice that consists in placing individuals in incommunicado detention for the purposes of investigation or any other reason, for prolonged periods without disclosing their whereabouts, amounts to secret detention and is in fact a form of enforced disappearance.²⁰ Such secret detention is usually devoid of judicial oversight and formal charges, which contravenes the right of every person not to be arbitrarily deprived of his or her liberty,²¹ and to challenge the lawfulness of detention before a court without delay,²² as well as the right of accused persons to defend themselves through legal counsel of their choosing.²³ Consequently, every instance of secret detention is de facto arbitrary detention, as there can be no reasons that would justify the placement of any person outside the protection of the law.²⁴

¹⁴ [A/HRC/13/42](#).

¹⁵ [A/HRC/49/45](#).

¹⁶ [A/HRC/48/55](#), paras. 51–60.

¹⁷ See opinion No. 81/2021.

¹⁸ See, for example, opinions No. 25/2021, No. 30/2021, No. 32/2021, No. 42/2021, No. 45/2021, No. 47/2021, No. 48/2021, No. 51/2021, No. 53/2021, No. 59/2021, No. 70/2021, No. 80/2021 and No. 81/2021.

¹⁹ See opinion No. 48/2021.

²⁰ See, for example, opinions No. 25/2021, No. 30/2021, No. 32/2021, No. 42/2021, No. 45/2021, No. 47/2021, No. 48/2021, No. 51/2021, No. 53/2021, No. 59/2021, No. 70/2021, No. 80/2021 and No. 81/2021.

²¹ *Ibid.* See also art. 9 of the Universal Declaration of Human Rights and art. 9 of the Covenant.

²² See, for example, opinions No. 42/2021, No. 48/2021 and No. 51/2021; and the 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](#)).

²³ See opinions No. 25/2021, No. 30/2021 and No. 48/2021; and [A/HRC/45/16](#), paras. 50–55.

²⁴ See opinions No. 48/2021, No. 59/2021 and No. 81/2021.

49. The Working Group reiterates²⁵ its call to all States to refrain from forcible transfers of individuals, circumventing due process established by international human rights law and disregarding the safeguards against arbitrary detention. It also calls upon all States to refrain from utilizing secret detention, as any such practice inherently violates the absolute prohibition of arbitrary detention.

B. Arbitrary detention and the Principles on Effective Interviewing for Investigations and Information Gathering

50. Throughout its jurisprudence, the Working Group has been acutely mindful of the many instances when violations of the absolute prohibition of torture and ill-treatment lead to a violation of the absolute prohibition of arbitrary detention, and vice versa. This is a topic that the Working Group addressed specifically some five years ago in its annual report.²⁶ Yet, with concern, the Working Group feels obliged to return to it, as the phenomenon has prevailed and arguably even grown.

51. Of particular concern to the Working Group remains the extraction of confessions and other incriminating information through ill-treatment and even torture, which are then used in proceedings against the victims who have been subjected to such treatment.²⁷ In the Working Group's view, the use of a confession extracted through ill-treatment that is tantamount, if not equivalent, to torture constitutes a breach of articles 10 and 11 of the Universal Declaration of Human Rights and, for States parties, of article 14 (3) (g) of the Covenant. It is also a breach of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The latter, in principle 21, specifically prohibits taking undue advantage of the situation of detention to compel confessions or incriminating statements. Confessions extracted through such means which have subsequently been admitted by judicial bodies as evidence in proceedings against the victims of such treatment have, in the view of the Working Group, led to situations of arbitrary detention due to the denial of the fair trial guarantees.²⁸

52. The Working Group wishes to emphasize that the safeguards which States are required to put in place to prevent occurrences of torture and ill-treatment also have a crucial role to play in minimizing and even preventing instances of arbitrary detention.²⁹

53. During the reporting period, the Working Group noted the launch of the Principles on Effective Interviewing for Investigations and Information Gathering, also known as the Méndez Principles,³⁰ which propose concrete guidance on conducting effective questioning as part of the investigation or intelligence-gathering process with a view to gathering accurate and reliable information rather than a confession. The Méndez Principles are grounded on scientific research showing that torture is ineffective in getting to the truth and that rapport-based interviewing improves the effectiveness, fairness and outcomes of investigations.

54. The Méndez Principles promote an approach that also helps to ensure the observance of other existing international human rights obligations, such as the presumption of innocence, the right not to be compelled to incriminate oneself, the right not to be subjected to discrimination, the right to a fair trial and the right to freedom from arbitrary arrest and detention.³¹ The Méndez Principles set out an interviewing methodology for obtaining accurate and reliable information, which integrates legal and procedural safeguards throughout the process. The use of such an approach will thereby improve "the legitimacy

²⁵ A/HRC/48/55, para. 60.

²⁶ A/HRC/39/45, paras. 59–66.

²⁷ See, for example, opinions No. 1/2021, No. 2/2021, No. 3/2021, No. 4/2021, No. 6/2021, No. 7/2021, No. 10/2021, No. 18/2021, No. 21/2021, No. 22/2021, No. 27/2021, No. 33/2021, No. 34/2021, No. 42/2021, No. 46/2021, No. 48/2021, No. 50/2021, No. 60/2021, No. 71/2021, No. 72/2021 and No. 83/2021.

²⁸ See opinions No. 48/2016, No. 3/2017, No. 6/2017, No. 29/2017, No. 2/2018, No. 32/2019, No. 59/2019, No. 73/2019, No. 61/2020, No. 2/2021 and No. 83/2021.

²⁹ Human Rights Council resolution 31/31.

³⁰ See <https://interviewingprinciples.com>.

³¹ See para. 37.

and quality of criminal investigations, prosecutions and convictions, and the efficient use of resources³² and also provide a safeguard against arbitrary detention.

55. The Working Group thus reiterates that it is mindful of measures aimed at eliminating the possibility of extracting confessions through torture and ill-treatment, as these could minimize the occurrence of situations of arbitrary detention. To this end, the Working Group welcomes the Méndez Principles and invites all States to give these due consideration in order to enhance their effective implementation in practice by law enforcement authorities.

C. Deprivation of liberty of older persons

56. The Working Group welcomes and takes note of the thematic report on deprivation of liberty of older persons, by the Independent Expert on the enjoyment of all human rights by older persons.³³ Indeed, in the course of the implementation of its own mandate, the Working Group has come across numerous instances where older persons have been deprived of their liberty in a wide variety of settings, and in some cases has established that such detention is arbitrary.³⁴

57. One of the key questions for the Working Group in relation to the deprivation of liberty of older persons relates to the very meaning of the term “deprivation of liberty”. Through its mandate, the Working Group has observed that detention can take place and indeed does take place in many different contexts. Consequently, older persons can be deprived of their liberty in the criminal justice context (e.g. in prisons, pretrial detention facilities and police stations) as well as in other settings, including in the course of migration proceedings or in health-care and social care contexts. While detention in criminal justice settings clearly amounts to deprivation of liberty, it has not been straightforward to make a similar determination in relation to other contexts.

58. The challenge arises in some instances when a narrow interpretation of the term “deprivation of liberty” is applied to such other settings, and the Working Group has therefore asserted that each instance of alleged deprivation of liberty must be examined in the light of the individual circumstances of that case.³⁵ In this regard, the Working Group reiterates that deprivation of liberty is not only a question of legal definition, but also of fact, and if an individual is not at liberty to leave a place or facility, then all the appropriate safeguards that are in place to guard against arbitrary detention must be respected.³⁶

59. The Working Group further recalls that when it is presented with a dispute about whether a deprivation of liberty has occurred, it must examine the specific situation as a whole – and account must be taken of a wide range of factors, including the type, duration, effects and manner of implementation of the measures imposed – and not just follow the description set out in the national legislation. When making this determination, the Working Group therefore considers, *inter alia*, whether the person has freely consented to the confinement measures, what the limitations are on the person’s physical movements, and on receiving visits and having various other means of communication with the outside world, the modalities of the imposed daily regime, and the level of security in the place.³⁷

60. Turning to the question of free consent of the person to the confinement measure, an issue that is often particularly important in relation to the deprivation of liberty of older persons, especially in health-care and social care settings, the Working Group warns against abuses of this element. As it has stated previously, any claim that an individual is at a certain

³² Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development, para. 47. See also opinion No. 33/2021, para. 79; and [CAT/C/BEL/CO/4](#), para. 12 (b).

³³ [A/HRC/51/27](#).

³⁴ See, for example, opinions No. 61/2021, No. 59/2021, No. 57/2021 and No. 34/2021. See also the preliminary findings from the Working Group’s visit to Maldives, available at <https://www.ohchr.org/en/statements/2022/01/working-group-arbitrary-detention-preliminary-findings-its-visit-maldives-29> and the country visit report ([A/HRC/51/29/Add.1](#)).

³⁵ See the Working Group’s deliberation No. 1 ([E/CN.4/1993/24](#) sect. II).

³⁶ [A/HRC/36/37](#), para. 56; and opinion No. 22/2020, para. 62.

³⁷ Opinion No. 22/2020, para. 65.

place of his or her own free will must indeed be the case in order for the situation not to amount to deprivation of liberty.³⁸

61. Noting all the above, it is of paramount importance that an individualized assessment of each context that gives rise to the question of whether the situation amounts to deprivation of liberty be carried out, independently,³⁹ and the Working Group wishes to emphasize that it is only through such an individualized assessment that it has been able to conclude that some settings amount to deprivation of liberty⁴⁰ while others do not.⁴¹

62. The Working Group acknowledges the vulnerable situation of older persons, which may be exacerbated by the conditions of detention, especially as regards appropriate and essential health care, which most detention facilities struggle to provide.⁴² Thus, the Working Group has, for example, called for detention of older persons in the migration context to be halted,⁴³ and, more recently, in the context of the global COVID-19 pandemic, has called upon States to reconsider the detention of those over the age of 60.⁴⁴

63. The Working Group is also mindful that the safeguards put in place by international human rights law through the provisions in article 9 of the Universal Declaration of Human Rights and, for the States parties concerned, in article 9 of the Covenant, must be particularly strictly adhered to as regards the deprivation of liberty of an older person. Owing to their age, such persons may be in situations of vulnerability and even multiple and intersecting vulnerabilities.⁴⁵ Consequently, adaptations to ensure implementation of their essential rights, such as the right to legal assistance and the right to challenge the legality of their detention, may be required.

64. The Working Group calls upon all States to explicitly acknowledge the vulnerability of older persons in all settings of deprivation of liberty and to ensure that the applicable policies provide effective safeguards against arbitrary detention.

IV. Conclusions

65. In 2021, 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 85 opinions, concerning 175 persons in 42 countries.

66. The Working Group notes with concern the response rate from States under its regular communications procedure, with States providing a timely response to the Working Group's communications and requests for information in approximately 53 per cent of the cases in which it adopted an opinion in 2021.

67. The Working Group also notes with concern that the response rate as far as its follow-up procedure is concerned – both from sources and from Governments – has decreased compared to the previous year, with responses being received in only approximately 40 per cent of cases in 2021. In 2020, the Working Group received follow-up responses in approximately 58 per cent of the cases.⁴⁶ Regrettably, as in 2020, the response rate in 2021 also does not necessarily imply the implementation of the opinions.

68. 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 15 of Human Rights Council resolution 42/22, it continues to face an ongoing

³⁸ [A/HRC/36/37](#), para. 51.

³⁹ [A/HRC/42/39](#), para. 54.

⁴⁰ See, for example, [A/HRC/51/29/Add.1](#).

⁴¹ [A/HRC/42/39/Add.1](#), para. 3.

⁴² See, for example, opinions No. 34/2021 and No. 61/2021.

⁴³ See the Working Group's revised deliberation No. 5 ([A/HRC/39/45](#), annex), para. 41.

⁴⁴ See the Working Group's deliberation No. 11 ([A/HRC/45/16](#), annex II), para. 15.

⁴⁵ See the Working Group's deliberation No. 12 ([A/HRC/48/55](#), annex), paras. 6 and 14.

⁴⁶ [A/HRC/48/55](#), para. 66.

backlog of cases, and as such, requires adequate and sustainable resources to fulfil its mandate.

69. Throughout the reporting period, the Working Group continued to explore various thematic issues to assist stakeholders in preventing arbitrary detention. In the present report, this has included elaborating on a number of thematic topics – notably secret detention; arbitrary detention and the principles of effective interviewing for investigations and information-gathering; and the deprivation of liberty of older persons.

V. Recommendations

70. The Working Group reiterates its call to States to increase their cooperation in responding 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.

71. The Working Group urges all States to refrain from any practices that may lead to de facto secret detention of individuals and encourages States to afford all due process guarantees, and especially the right to legal representation and the right to challenge the legality of detention, to all those in their jurisdictions so as to ensure that no detention results in arbitrary deprivation of liberty.

72. Welcoming the launch of the Principles on Effective Interviewing for Investigations and Information Gathering and recognizing their role in reducing instances of arbitrary deprivation of liberty, the Working Group calls upon States to take due note of these Principles and to seek their effective implementation in practice by their law enforcement agencies.

73. Recalling that deprivation of liberty must always be exceptional, the Working Group welcomes the practice of many States to give particular consideration to the age of individuals when deciding upon the appropriateness of their detention, and calls upon all States to implement this effectively in practice. The Working Group also calls upon all States to acknowledge the specific vulnerability of older persons to arbitrary detention and recommends that the safeguards against arbitrary detention be specifically adapted to make them effective in relation to older persons.

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