



## 人权理事会

### 强迫或非自愿失踪问题工作组

## 强迫或非自愿失踪问题工作组发出的函件、审查的案件、提出的意见及开展的其他活动\*

第一百三十二届会议(2024年1月29日至2月2日)

### 一. 函件\*\*

- 2023年9月28日至2024年2月2日，强迫或非自愿失踪问题工作组决定依照紧急程序向下列国家转交 182 起案件：布隆迪(1)、中国(1)、科摩罗(1)、塞浦路斯(77)、朝鲜民主主义人民共和国(4)、埃及(1)、黎巴嫩(2)、尼加拉瓜(4)、巴基斯坦(10)、俄罗斯联邦(78)和委内瑞拉玻利瓦尔共和国(3)。
- 工作组还决定依照紧急程序向巴勒斯坦国事实上的当局转交 10 起相当于强迫失踪的案件(10)。
- 在 2024 年 1 月 29 日至 2 月 2 日举行的第一百三十二届会议上，工作组决定向下列国家转交 74 起新报告的强迫失踪案件：阿尔及利亚(1)、孟加拉国(1)、白俄罗斯(1)、中国(5)、朝鲜民主主义人民共和国(4)、埃及(4)、冈比亚(1)、伊朗伊斯兰共和国(1)、毛里塔尼亚(1)、摩洛哥(1)、巴基斯坦(38)、俄罗斯联邦(1)、沙特阿拉伯(1)、阿拉伯叙利亚共和国(11)、泰国(1)、阿拉伯联合酋长国(1)和委内瑞拉玻利瓦尔共和国(1)。
- 工作组还决定向利比亚(1)、阿拉伯叙利亚共和国东北部(3)、也门(1)和巴勒斯坦国(2)事实上的当局转交七起新报告的相当于强迫失踪的案件。
- 工作组澄清了涉及以下国家的 120 起案件：阿塞拜疆(1)、中国(32)、埃及(4)、伊朗伊斯兰共和国(1)、黎巴嫩(1)、墨西哥(1)、尼加拉瓜(2)、巴基斯坦(1)、俄罗斯联邦(69)、沙特阿拉伯(2)和委内瑞拉玻利瓦尔共和国(6)。根据政府提供的资料，共澄清了 79 起案件，涉及阿塞拜疆(1)、中国(32)、墨西哥(1)、俄罗斯联邦(43)和沙特阿拉伯(2)。根据来文方提供的资料，共澄清了 41 起案件，涉及埃及

\* 本文件附件不译，原文照发。

\*\* 工作组强调，向事实上的当局转交案件绝不意味着对任何领土、城市或地区、或其当局的法律地位表示任何意见。



(4)、伊朗伊斯兰共和国(1)、黎巴嫩(2)、尼加拉瓜(2)、俄罗斯联邦(26)和委内瑞拉玻利瓦尔共和国(6)。根据来文方提供的资料，工作组还澄清了两起相当于强迫失踪的案件，这两起案件已移交利比亚事实上的当局。工作组对一起涉及西班牙的案件停止了审议。

6. 工作组还发出了涉及斯里兰卡和土耳其的迅速干预函，但在本报告所述期间没有收到答复。

7. 2023年9月28日至2024年2月2日，工作组与其他特别程序机制联合发出了27份函件。其中包括：6份联合紧急呼吁，分别发给白俄罗斯(1)、比利时(1)、伊朗伊斯兰共和国(2)、以色列(1)和“其他行为体”——利比亚事实上的当局(1)；20份联合指控函，分别发给安哥拉(1)、布基纳法索(1)、哥伦比亚(1)、哥斯达黎加(1)、埃及(1)、洪都拉斯(1)、印度尼西亚(1)、墨西哥(1)、尼泊尔(1)、尼加拉瓜(1)、尼日尔(1)、巴基斯坦(1)、巴拿马(1)、秘鲁(1)、俄罗斯联邦(1)、阿拉伯叙利亚共和国(1)、土耳其(1)、阿拉伯联合酋长国(1)、委内瑞拉玻利瓦尔共和国(1)和津巴布韦(1)；以及一份发给马里的其他联合信函(1)。<sup>1</sup>

8. 工作组在本届会议期间审查并通过了涉及巴西、中国、伊拉克、利比亚和美利坚合众国的五项一般性指控，载于附件二。

9. 工作组在本报告所述期间发布的新闻稿和声明的完整清单载于附件三。

## 二. 其他活动

10. 工作组在本届会议期间讨论了内部事项，包括专题项目、国别访问、以前访问吉尔吉斯斯坦和塔吉克斯坦的后续报告、技术访问以及设想向各国提供的技术援助。工作组讨论了其关于2023年10月21日至26日在坦桑尼亚联合共和国阿鲁沙访问非洲联盟人权和法律机构及其他次区域机构的报告。工作组成员还讨论了工作组即将进行的国别访问。

11. 工作组就即将向人权理事会第五十七届会议提交的关于选举背景下强迫失踪问题的专题研究报告发出了在2023年11月22日至2024年2月15日期间提供投入的呼吁。工作组收到了55份材料，其中3份来自国家，52份来自个人、学术界和民间社会组织。<sup>2</sup>

12. 工作组在本届会议期间审议了下一个专题研究，主题是“保护土地、自然资源和环境背景下的强迫失踪问题”。工作组计划从2024年9月开始进行磋商。

13. 工作组在本届会议上继续讨论正在进行的项目，包括审查将于2024年9月与强迫失踪问题委员会通过的关于所谓“短期强迫失踪”的联合声明草案。工作组还继续参与就新技术与强迫失踪问题开展工作，并在这方面扼要介绍了项目第一阶段的成果。工作组将在2024年9月的一次活动中发布该项目的成果，包括说明如何逐步通过使用新技术来调查强迫失踪案件。

<sup>1</sup> 本报告中提到的所有信函及相关答复均可查阅  
<https://spcommreports.ohchr.org/Tmsearch/TMDocuments>。

<sup>2</sup> 见 <https://www.ohchr.org/en/calls-for-input/2024/call-contributions-thematic-study-working-group-enforced-or-involuntary>。

14. 工作组还讨论了目前向各国提供的技术援助，包括向智利政府提供的关于审查《国家搜寻、真相和正义计划》的技术援助。此外，工作组还讨论了将与哥伦比亚独立失踪人员搜寻股合作开展的技术援助项目，该项目旨在加强搜寻被强迫失踪流动人员的能力并分享最佳做法。

15. 工作组本届会议决定开展关于在强迫失踪案件中使用普遍刑事管辖权的研究，并计划于 2024 年 9 月对瑞士进行技术访问。

16. 在本届会议上，工作组还与多民族玻利维亚国、加拿大、智利、法国、印度尼西亚、肯尼亚、立陶宛、马来西亚、荷兰王国、秘鲁、波兰和委内瑞拉玻利瓦尔共和国政府的代表举行了会议。此外，工作组会见了来自若干国家的一些失踪人员亲属、律师、非政府组织代表和从事强迫失踪问题工作的国家人权机构代表。工作组还与秘鲁总检察长办公室举行了一次会议。

17. 工作组在本报告所述期间开展的其他活动清单载于附件四。

18. 工作组将于 2024 年 5 月 6 日至 10 日在华沙举行第一百三十三届会议。

### 三. 工作组在本届会议期间审查的关于在各国发生的强迫失踪的资料

#### 阿尔及利亚

##### 标准程序

19. 工作组依照标准程序向该国政府转交了一起案件，涉及摩洛哥士兵 Mohamed Khelil，据称他于 1979 年 8 月 24 日在西撒哈拉冲突<sup>3</sup>期间被阿尔及利亚军事情报人员及萨基亚阿姆拉和里奥德奥罗人民解放阵线(波利萨里奥阵线)成员绑架。<sup>4</sup>

20. 工作组依照其工作方法向摩洛哥政府和波利萨里奥阵线转交了案件副本。

##### 政府提供的资料

21. 2024 年 1 月 5 日，该国政府转交了关于 Abdel Abdelmalek 案件的资料，但被认为不足以澄清该案件。

#### 安哥拉

##### 联合指控函和答复

22. 2024 年 1 月 15 日，工作组与其他特别程序机制联合发出了一封指控函，涉及据称政府官员在纪念冲突受害者和解委员会中的代表性和影响力过大，该委员

<sup>3</sup> 关于西撒哈拉的地位，联合国认为它是一个非自治领土，根据载于大会第 1514(XV)号决议的 1960 年 12 月 14 日《给予殖民地国家和人民独立宣言》以及第 1541(XV)号和第 2625(XXV)号决议所规定的原则，享有自决权。

<sup>4</sup> 向非国家行为体转交案件绝不意味着对任何领土、城市或地区、或其当局的法律地位表示任何意见。

会的运作缺乏透明度和沟通，以及对 5 月 27 日杀戮事件据称受害者的遗骸挖掘和辨认工作的可靠性所表示的关切。<sup>5</sup>

23. 2024 年 3 月 15 日，安哥拉政府对联合指控函作出了答复。<sup>6</sup>

## 阿塞拜疆

### 澄清

24. 根据亚美尼亚政府以前提供的资料，工作组决定在六个月规则规定的期限到期后澄清一起案件。<sup>7</sup> 案件涉及 Vazgen Andriasyan，他已经死亡，其遗体已得到辨认。

## 巴林

### 政府提供的资料

25. 2023 年 12 月 28 日，巴林政府转交了关于 Husain Marzooq 和 Mohamed Ramadhan 案件的补充资料，来文方此前在 2023 年 5 月 24 日对这两起案件作了澄清。<sup>8</sup>

## 孟加拉国

### 标准程序

26. 工作组依照标准程序向该国政府转交了一起案件，涉及 Mohammad Rahamat Ullah，一名学生兼电工，据称 2023 年 8 月 29 日他在家中被一些据信为快速行动营人员的人绑架。

## 白俄罗斯

### 标准程序

27. 工作组依照标准程序向该国政府转交了一起案件，涉及 Maria Kalesnikava，她最后一次被人看到是 2023 年 2 月 2 日在她服 11 年刑期的拘留所。

### 联合紧急呼吁

28. 2023 年 12 月 22 日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及 Mikalai Statkevich 和 Maria Kalesnikava 被长期单独监禁，可能构成强迫失踪，以及被监禁在白俄罗斯的人权维护者与家人的联系受到部分限制的问题。<sup>9</sup>

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<sup>5</sup> AGO3/2023.

<sup>6</sup> 见对 AGO3/2023 的答复。

<sup>7</sup> [A/HRC/WGEID/130/1](#), 第 21 段。

<sup>8</sup> [A/HRC/WGEID/131/1](#), 第 30 段。

<sup>9</sup> BLR13/2023.

## 比利时

### 联合紧急呼吁

29. 2023 年 10 月 27 日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及目前被拘留在阿拉伯叙利亚共和国东北部 Al-Roj 营地的两名比利时国民，他们不可能已被遣返，因为他们在营地中没有受抚养子女，会被排除在比利时的遣返政策之外。不予遣返将使它们面临被强迫失踪的危险。<sup>10</sup>

## 不丹

### 政府提供的资料

30. 工作组审议了尼泊尔政府转交的关于 Lok Nath Acharya 案件的资料，但这些资料被认为不足以澄清案件。

31. 依照工作组的工作方法，尼泊尔政府提交的资料已转交不丹和印度政府。

## 巴西

### 一般性指控

32. 工作组从可靠来源收到的资料称，阿尔及利亚在执行《保护所有人不遭受强迫失踪宣言》方面存在侵权行为并遇到障碍。这些指控涉及 1964 年至 1985 年军事独裁期间发生的以及巴西建立民主制度后开始发生的强迫失踪事件，这些事件至今仍未解决(见附件二)。

## 布基纳法索

### 联合指控函

33. 2024 年 2 月 2 日，工作组与其他特别程序机制联合发出了一封指控函，涉及人权维护者 Daouda Diallo 遭绑架和强迫失踪一事。<sup>11</sup>

## 布隆迪

### 紧急程序

34. 工作组依照紧急程序向该国政府转交了一起案件，涉及一名据称 2023 年 9 月被布隆迪国家警察绑架的个人。

<sup>10</sup> BEL3/2023.

<sup>11</sup> BFA1/2024.

## 智利

### 适用六个月规则

35. 2022 年 9 月 22 日，<sup>12</sup> 智利政府提供了关于三起未决案件的资料，根据这些资料，工作组决定依照其工作方法适用六个月规则。

### 政府提供的资料

36. 2022 年 9 月 22 日，<sup>13</sup> 该国政府转交了关于 782 起案件的资料，但被认为不足以澄清有关案件。

## 中国

### 紧急程序

37. 工作组依照紧急程序向中国政府转交了一起案件，涉及前警察、共产党员 Tsebo，据称他于 2023 年 9 月 12 日在玉树藏族自治州称多县(藏语：Tridu)的一家餐馆被当地中国警察拘留。

### 标准程序

38. 工作组依照标准程序向中国政府转交了五起案件，涉及五人，据称他们于 2022 年 8 月在色达县(四川省甘孜藏族自治州)因从事烧香、祈祷等宗教活动，被当地中国警察任意拘留。据认为，这些被拘留者又被转移到色达县的某个未知地点。另外，据称其中一名被拘留者在警方羁押期间死亡，其遗体未归还家人。

### 澄清

39. 根据政府以前提供的资料，工作组决定在其工作方法所载的六个月规则规定的期限到期后对 32 起案件作出澄清。<sup>14</sup>

### 一般性指控

40. 工作组从可靠来源收到的资料称，中国在执行《保护所有人不遭受强迫失踪宣言》方面存在侵权行为并遇到障碍。特别是，国家刑事制度下某些形式的剥夺自由似乎具有强迫失踪的构成要素(见附件二)。

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<sup>12</sup> 工作组遗憾地注意到，由于一处笔误，无法及时处理政府的答复。

<sup>13</sup> 同上。

<sup>14</sup> [A/HRC/WGEID/130/1](#), 第 26 段。

## 哥伦比亚

### 联合指控函和答复

41. 2023 年 10 月 27 日，工作组与其他特别程序机制联合发出了一封指控函，涉及达连隘口的人道主义状况，这一状况影响到途经该条路线的移民，据报该路线上继续发生死亡和失踪事件。<sup>15</sup>

42. 2023 年 12 月 22 日和 2024 年 2 月 20 日，哥伦比亚政府对联合指控函作出了答复。<sup>16</sup>

## 哥斯达黎加

### 联合指控函

43. 2023 年 10 月 27 日，工作组与其他特别程序机制联合发出了一封指控函，涉及人道主义状况以及穿越达连隘口、过境前往哥斯达黎加的人数增加的问题，据报哥斯达黎加继续广泛存在践踏和侵犯人权行为，包括失踪。<sup>17</sup>

44. 2023 年 12 月 21 日，哥斯达黎加政府对联合指控函作出了答复。<sup>18</sup>

## 科摩罗

### 紧急程序

45. 工作组依照紧急程序向该国政府转交了一起案件，涉及科摩罗反对派组织“Hury”的主席 Achmet Said Mohamed，据称他于 2024 年 1 月 9 日在位于莫罗尼的住所前被科摩罗军队绑架。

## 塞浦路斯

### 紧急程序

46. 工作组依照紧急程序向该国政府转交了 77 起案件，涉及 Suleiman Mohammad Abu Kashto、Suleiman Mustapha Abu Kashto、Bakr al-Erq、Khadija al-Erq、Leah al-Erq、Lina al-Erq、Moussa Lashekhu、Ibrahim al-Ammarien、Ali Ibrahim、Louay al-Sayed Ahmed、Mahmoud Kantar、Omar Abdullah、Mohammed al-Najm、Abdul Rahman al-Najm、Fadi al-Dahis、Mohammed al-Hassan、Walid al-Shaker、Mohammad Diaa al-Ayyash、Omar al-Barhoum、Mohammed Ali Dakhan、Ali al-Abdullah、Ismail al-Jamal、Mohammed Ousman、Khaled Mohamid、Mohammed Darwish、Ahmad Basel Darwish、Hamed Nazal、Bushra Sharaf al-Din、Mohammed Jamal-Aldin、Abdullah Jamal-Aldin、Ahmad Jamal-Aldin、Khayryi Jamal-Aldin、Amal Dabko、Mohammed Keblawi、Mohammed Keblawi、Kaseem Keblawi、

<sup>15</sup> COL8/2023.

<sup>16</sup> 见对 COL8/2023 的答复。

<sup>17</sup> CRI1/2023.

<sup>18</sup> 见对 CRI1/2023 的答复。

Mohammed al-Homsi、Mohammed al-Housni、Anas Shtiwi、Monir al-Houri、Ayham Anizan、Maher Issa、Mohammed al-Dhubyan、Ibadah Abu Rukba、Kassem al-Sheikh Kassem、Anas al-Hazouri、Fatima al-Yasin、Shahad al-Ahmad、Fouad Hanadi、Ghaith al-Ahmad、Ahmad al-Almouri、Ali al-Kalash、Abdulwahab Debak、Faisal al-Abdou、Abdullah al-Abdou、Hasan al-Ali、Sherein al-Ali、Hussein al-Ali、Ahmad al-Mohamad、Ibrahim al-Mohamad、Wissam al-Nayef、Ahmad al-Hamdo、Diab al-Jouma、Amal al-Jouma、Abdelwahab al-Jouma、Moustafa al-Jouma、Jouma al-Jouma、Moustafa al-Jouma、Aida al-Ahmad、Mousaa al-Ali Shaihou、Hasan Zaloukh、Ahmad al-Hamid、Osama al-Ibrahim、Mohammad al-Khasawneh、Qusay al-Mahdi、Nidal Shihadat 和 Wajdi Rizk，他们在从黎巴嫩乘船前往欧洲的途中，在进入塞浦路斯领海后于 2023 年 12 月 12 日失踪。

## 朝鲜民主主义人民共和国

### 紧急程序

47. 工作组依照紧急程序向该国政府转交了四起案件，涉及四人，据称他们于 2023 年 9 月和 10 月左右在中国吉林省白山拘留所被中国警察单独监禁，后被强行遣返朝鲜民主主义人民共和国。工作组依照其工作方法，向中国政府转交了这些案件的副本。

### 意见

48. 在审查朝鲜民主主义人民共和国的案件时，工作组表示极为关切，因为据报告，一些返回者是人口贩运的受害者，由于强迫婚姻、家庭奴役和性奴役，包括强迫怀孕等目的被诱骗到中国。工作组感到遗憾的是，这些人被认为是在中国遭到拘留的朝鲜民主主义人民共和国大批逃亡者的一部分，他们在 2023 年 1 月中国结束冠状病毒病(COVID-19)清零政策后被立即强制遣返。

### 标准程序

49. 工作组还依照标准程序向该国政府转交了四起案件，涉及：

(a) 一名逃离朝鲜民主主义人民共和国的个人，据称 2010 年在中国昆明被任意拘留，后被中国公安人员强行遣返朝鲜民主主义人民共和国；

(b) 一名逃离朝鲜民主主义人民共和国的少年，据称 2016 年在中国吉林省延吉市被中国安全人员任意拘留，并被强行遣返朝鲜民主主义人民共和国。依照工作组的工作方法，向中国和大韩民国政府转发了该案件的副本；

(c) 一名朝鲜民主主义人民共和国前公职人员和叛逃者，据称 2009 年在中国长白县被中国边防军官任意拘留，并被强行遣返朝鲜民主主义人民共和国两江道惠山市；

(d) Yeon Kyeong-Hyeok, 医生，据称 2006 年 3 月下旬在家中被绑架，可能是国家安全部人员所为。

### 来文方提供的资料

50. 来文方提供了一起未决案件的最新资讯，但被认为不足以澄清该案件。



## 政府提供的资料

51. 2023 年 12 月 18 日，政府对工作组 2023 年 11 月 13 日的信函作出了答复，工作组随函转交了在第一百三十一届会议上依照标准程序审议的案件。<sup>19</sup> 工作组再次对朝鲜民主主义人民共和国当局一再拒绝承认或审议根据人道主义程序转交的案件表示遗憾。

## 厄瓜多尔

### 来文方提供的资料

52. 来文方提供了一起未决案件的最新资料，但被认为不足以澄清该案件。

## 埃及

### 紧急程序

53. 工作组依照紧急程序向该国政府转交了一起案件，涉及 Wael Abdul Ghani Mohamed Salim，据称他于 2023 年 9 月 19 日在住所被身穿制服的警察逮捕。

### 标准程序

54. 工作组依照标准程序向该国政府转交了四起案件，涉及：

- (a) Mohamed Qerba, 2018 年 1 月 12 日被埃及国家安全人员逮捕；
- (b) Gouda Harbi, 2019 年 8 月 2 日被国家安全部队人员逮捕；
- (c) Moussaab Khalil, 2019 年 1 月 28 日在家中被国家安全部队人员逮捕；
- (d) Ahmed Tarek Eissa Siam, 最后一次被人看到是 2019 年 6 月 26 日他向 Belbeis 警察局报到后。

### 根据来文方提供的资料作出的澄清

55. 根据来文方提供的资料，工作组决定澄清四起案件，涉及 Youssef Mohamed Sobhi al-Sunaiti、Essam Gharib Mahran Khalil 和 Mostafa Mohamed el-Sayed Hussein (据报他们现在狱中)，以及 Mohamed Ibrahim Farid Jabr(据报他已获自由)。

## 政府提供的资料

56. 2024 年 1 月 10 日，政府提交了一起未决案件的资料，但被认为不足以澄清该案件。

## 联合指控函

57. 2024 年 1 月 22 日，工作组与其他特别程序机制联合发出了一封指控函，涉及人权维护者 Hoda Abdel-Moneim 和 Moaaz al-Sharqawy 遭到强迫失踪，并以通常称为“轮流”的做法被反复指控。根据所收到的资料，还对以下问题表示了关切：Abdel-Moneim 女士得不到治疗；Al Sharqawy 先生 2023 年 5 月在没有逮捕令

<sup>19</sup> [A/HRC/WGEID/131/1](#), 第 44 和 45 段。

的情况下被逮捕，缺乏正当程序；据称他受到虐待，并在五年内第二次被强迫失踪，第一次是在 2018 年；紧急法院在进行缺乏正当程序保障的审判后，批准将他判处 10 年徒刑。<sup>20</sup>

## 萨尔瓦多

### 适用六个月规则

58. 该国政府提供了一起未决案件的资料，根据这些资料，工作组决定依照其工作方法适用六个月规则。

### 政府提供的资料

59. 2023 年 10 月 27 日，该国政府转交了关于 303 起案件的资料，但被认为不足以澄清有关案件。

## 冈比亚

### 标准程序

60. 工作组依照标准程序向该国政府转交了一起案件，涉及 Peter Mensah，他于 2005 年 7 月 22 日在巴拉被冈比亚海军逮捕。工作组依照其工作方法向加纳政府转交了该案件的副本。

### 来文方提供的资料

61. 来文方提供了一起未决案件的最新资料，但被认为不足以澄清该案件。

## 洪都拉斯

### 联合指控函

62. 2023 年 12 月 15 日，工作组与其他特别程序机制联合发出了一封指控函，涉及据称由国家工作人员造成的一名个人的强迫失踪，在报告失踪后国家安全人员继续骚扰其家人，父亲被谋杀，另一名家庭成员被拘留。<sup>21</sup>

## 印度尼西亚

### 联合指控函和答复

63. 2023 年 12 月 15 日，工作组与其他特别程序机制联合发出了一封指控函，涉及据报印度尼西亚有关当局根据政府关于以非司法方式解决过去严重侵犯人权行为的政策，为保障真相、正义、赔偿、记忆和保证不再发生而采取的一些措施不足。<sup>22</sup>

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<sup>20</sup> EGY7/2023.

<sup>21</sup> HND4/2023.

<sup>22</sup> IDN8/2023.

64. 2024 年 3 月 8 日，印度尼西亚政府对联合指控函作出了答复。<sup>23</sup>

## 伊朗伊斯兰共和国

### 标准程序

65. 工作组依照标准程序向该国政府转交了一起案件，涉及 Mosa Peyambernejad，他于 1983 年 8 月 5 日在家中被伊斯兰革命卫队逮捕。

### 根据来文方提供的资料作出的澄清

66. 根据来文方提供的资料，工作组决定澄清一起涉及 Delir Mardookhi 的案件，据报他已获自由。

### 联合紧急呼吁

67. 2024 年 1 月 11 日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及 Mojahed (Abbas) Kourkouri 和 Reza Rasaei 的案件，在最高法院维持对他们所定的“谋杀罪”和所判死刑后，他们在伊朗伊斯兰共和国面临即将被处决的危险。<sup>24</sup>

68. 2024 年 1 月 24 日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及四名库尔德男子 Pejman Fatehi、Vafa Azarbar、Mohammad (Hazhir) Faramarzi 和 Mohsen Mazloum，他们在伊朗伊斯兰共和国面临被秘密处决的严重风险，而没有事先通知他们的家人和律师，因为他们自 2022 年 7 月以来一直被当局强迫失踪。<sup>25</sup>

## 伊拉克

### 一般性指控

69. 工作组从可靠来源收到资料称，伊拉克在执行《保护所有人不遭受强迫失踪宣言》方面存在侵权行为并遇到障碍。这些指控涉及伊拉克总理办公室 2023 年向伊拉克国民议会提交的失踪人员法草案。根据所收到的资料，该法律草案的一些规定不符合国际法标准，而伊拉克作为 2010 年加入的《保护所有人免遭强迫失踪国际公约》的缔约国，有义务遵守这些标准(见附件二)。

## 以色列

### 联合紧急呼吁

70. 2023 年 11 月 23 日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及在被占领的西岸和东耶路撒冷的城市和村庄，巴勒斯坦人，包括人权活动人士、律师、艺术家、学生和儿童不断遭到的广泛逮捕和拘留。据称，在一些案件

<sup>23</sup> 见对 IDN8/2023 的答复。

<sup>24</sup> IRN1/2024.

<sup>25</sup> IRN3/2024.

中，被捕或被俘者的命运和下落仍然不明，这将达到强迫失踪标准。向巴勒斯坦国转交了联合紧急呼吁的副本。<sup>26</sup>

## 哈萨克斯坦

### 政府提供的资料

71. 2023 年 12 月 4 日，政府转交了一起未决案件的资料，但被认为不足以澄清该案件。

## 黎巴嫩

### 紧急程序

72. 工作组依照紧急程序向该国政府转交了两起案件，涉及：

(a) Al Haj Ahmad Ahmad, 的黎波里居民，据称 2023 年 12 月 29 日在其住所被黎巴嫩军事情报人员绑架；

(b) Amer Haddara, 的黎波里居民，据称 2023 年 12 月 25 日被安全总局部队绑架。

### 根据来文方提供的资料作出的澄清

73. 根据来文方提供的资料，工作组决定澄清 Amer Haddara 的案件，据报他已获自由。

## 利比亚

### 来文方提供的资料

74. 来文方提供了一起未决案件的最新资料，但被认为不足以澄清该案件。

### 一般性指控

75. 工作组从可靠来源收到的资料称，利比亚在执行《保护所有人不遭受强迫失踪宣言》方面存在侵权行为并遇到障碍。这些指控涉及利比亚境内的移民、难民和寻求庇护者，包括妇女、儿童(往往无人陪伴)和残疾人被任意剥夺自由和强迫失踪。工作组还获悉，拘留设施中移民的关押条件不人道，试图监测拘留条件和协助被关押者的民间社会组织往往受到阻碍。此外，根据工作组收到的资料，没有对上述情况和虐待行为进行调查，据报这些情况和行为被有罪不罚现象所掩盖，也没有任何有效的补救办法，可为在有关拘留中心遭受的伤害获得补救(见附件二)。

<sup>26</sup> ISR9/2023.

## 马里

### 其他联合信函

76. 2023年10月31日，工作组与其他特别程序机制联合发出了一封关于马里反恐立法框架的信函，据称该框架不符合国际法标准，可能会为强迫失踪提供便利。<sup>27</sup>

## 毛里塔尼亚

### 标准程序

77. 工作组依照标准程序向该国政府转交了一起案件，涉及 El Ghalia Mohamd Yahdih, 据称他于1980年在努瓦迪布市中心被据信参与西撒哈拉冲突的身份不明者绑架。

## 墨西哥

### 澄清

78. 根据政府以前提供的资料，工作组决定澄清一起案件，该案件是在六个月规则规定的期限到期之后，于2023年5月闭会期间转交来文方的。<sup>28</sup> 案件涉及 José Moisés Sánchez Cerezo, 据称他已死亡，其遗体已被辨认并归还与他有关之人。

### 联合指控函和答复

79. 2023年12月21日，工作组与其他特别程序机制联合发出了一封指控函，涉及失踪和下落不明人员国家登记册的修订工作缺乏透明度和方法，以及在遴选国家搜寻委员会新专员的过程中没有事先与公众协商。<sup>29</sup>

80. 2024年2月19日，墨西哥政府对联合指控函作出了答复。<sup>30</sup>

## 尼泊尔

### 政府提供的资料

81. 2021年9月1日，该国政府转交了关于464起案件(包括59名妇女和35名儿童的案件)的资料，但被认为不足以澄清有关案件。<sup>31</sup> 在转交案件时，工作组感到遗憾的是，由于一处笔误，无法及时处理答复。

<sup>27</sup> MLI1/2023.

<sup>28</sup> 工作组感到遗憾的是，由于一处笔误，给来文方的信函于2023年5月闭会期间转交。

<sup>29</sup> MEX12/2023.

<sup>30</sup> 见对 MEX12/2023 的答复。

<sup>31</sup> 工作组遗憾地注意到，尼泊尔政府2021年9月1日转交并于2022年6月29日重新提交的最初答复由于笔误而没有得到及时处理。

## 联合指控函

82. 2023年12月15日，工作组与其他特别程序机制联合发出了一封指控函，涉及强迫失踪对尼泊尔妇女，包括失踪者的妻子、母亲或亲属的严重影响，以及国家当局未能有效搜寻失踪人员，开展独立、公正、彻底和有效的调查，并确保对家属予以充分赔偿。<sup>32</sup>

## 尼加拉瓜

### 紧急程序

83. 工作组依照紧急程序向该国政府转交了四起案件，涉及：

(a) Brooklyn Rivera Bryan, 米斯基托族土著领袖和尼加拉瓜国民议会议员，据称因参加尼加拉瓜加勒比海岸土著政党 YATAMA 而于 2023 年 9 月 29 日被强迫失踪；

(b) Freddy Antonio Quezada, 据称 2023 年 11 月 29 日从家中被尼加拉瓜国家警察强迫失踪；

(c) Carlos José Avilés Cantón, 马那瓜教区副主教，据报在尼加拉瓜 Santo Cristo de las Colinas 教堂做弥撒后被绑架；

(d) Isidoro del Carmen Mora Ortega, 休纳教区主教，据称 2023 年 12 月 20 日在南加勒比海岸自治区拉克鲁斯德里奥格兰德市被尼加拉瓜国家警察特种部队人员绑架。

### 根据来文方提供的资料作出的澄清

84. 根据来文方提供的资料，工作组决定澄清两起案件，涉及 Carlos José Avilés Cantón 和 Isidoro del Carmen Mora Ortega, 据报他们已获自由。

## 联合指控函

85. 2023年12月15日，工作组与其他特别程序机制联合发出一封关于 Fanor Alejandro Ramos 案件的指控函，他被剥夺了自由，据称被强迫失踪 49 天。<sup>33</sup>

## 尼日尔

### 联合指控函

86. 2023年12月20日，工作组与其他特别程序机制联合发出一封关于 Samira Sabou 遭司法骚扰、任意拘留和强迫失踪的指控函。<sup>34</sup>

<sup>32</sup> NPL3/2023。

<sup>33</sup> NIC4/2023。

<sup>34</sup> NER2/2023。

## 巴基斯坦

### 紧急程序

87. 工作组依照紧急程序向该国政府转交了 10 起案件，涉及：

(a) 一名据称 2023 年 11 月在俾路支省的工作场所被绑架的个人，据信是巴基斯坦国家工作人员所为；

(b) 两名据称 2023 年 11 月在俾路支省被边防部队人员绑架的个人；

(c) 四名据称 2023 年 10 月在俾路支省被巴基斯坦国家工作人员绑架的个人；

(d) 一名据称 2023 年 9 月在卡拉奇被巴基斯坦国家工作人员绑架的个人；

(e) 一名据称 2023 年 9 月在俾路支省被巴基斯坦情报部门人员绑架的个人；

(f) 一名据称 2023 年 9 月在俾路支省被边防部队和巴基斯坦情报部门人员绑架的个人。

### 标准程序

88. 工作组依照标准程序向该国政府转交了 38 起案件(见附件一)。

### 意见

89. 工作组注意到，自 2022 年巴基斯坦宪法危机爆发以来，向工作组报告和工作组登记的案件数量不断增加。工作组深感遗憾的是，许多强迫失踪案件，特别是在俾路支省、开伯尔-普赫图赫瓦省、旁遮普省和信德省发生的强迫失踪案件，据称是军人和警察，包括准军事部队，如边防部队和别动队所为。

### 根据来文方提供的资料作出的澄清

90. 根据来文方提供的资料，工作组决定澄清一起涉及俾路支省一名个人的案件，据报他已获自由。

### 联合指控函

91. 2023 年 11 月 22 日，工作组与其他特别程序机制联合发出了一封指控函，涉及包括媒体工作者、记者和公众人物在内的个人据称遭强迫失踪、拘留和起诉的问题，据认为这与他们对巴基斯坦正义运动党的支持以及前总理伊姆兰·汗的下台和被捕有关。<sup>35</sup>

<sup>35</sup> PAK9/2023.

## 巴拿马

### 联合指控函和答复

92. 2023 年 10 月 27 日，工作组与其他特别程序机制联合发出了一封指控函，涉及达连隘口的人道主义状况，该状况影响到移民，包括沿此路线过境的儿童和青少年，在该地区，死亡、失踪、性暴力和其他侵犯人权的事件仍时有发生。<sup>36</sup>

93. 2023 年 12 月 22 日，巴拿马政府对联合指控函作出了答复。<sup>37</sup>

## 秘鲁

### 联合指控函和答复

94. 2023 年 12 月 11 日，工作组与其他特别程序机制联合发出一封关于释放前总统阿尔韦托·藤森的指控函，阿尔韦托·藤森在 2009 年因国际法规定的罪行，包括法外处决、酷刑和强迫失踪，被判处 25 年监禁。<sup>38</sup>

95. 2024 年 2 月 9 日，秘鲁政府对联合指控函作出了答复。<sup>39</sup>

## 菲律宾

### 政府提供的资料

96. 2023 年 11 月 13 日，该国政府转交了关于两起案件的资料，但被认为不足以澄清有关案件。

## 俄罗斯联邦

### 紧急程序

97. 工作组依照紧急程序向该国政府转交了俄罗斯联邦部队在乌克兰实施的 78 起案件，涉及：

(a) 一名据称 2022 年 2 月 26 日在卢甘斯克省的家中被俄罗斯联邦武装部队及其附属武装团体绑架的未成年人；

(b) 一名试图从顿涅茨克省马里乌波尔撤离，在 2022 年 3 月 16 日后失踪的未成年人，当时他被俄罗斯联邦武装部队及其附属武装团体包围；

(c) Vladyslav Leshchenko, 乌克兰士兵，2022 年 3 月 20 日在基辅省被俄罗斯联邦武装部队及其附属武装团体俘虏后失踪；

(d) Yurii Hulchuk, 乌克兰士兵，2022 年 4 月 12 日在马里乌波尔被俄罗斯联邦武装部队及其附属武装团体俘虏后失踪；

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<sup>36</sup> PAN1/2023.

<sup>37</sup> 见对 PAN1/2023 的答复。

<sup>38</sup> PER9/2023.

<sup>39</sup> 见对 PER9/2023 的答复。



(e) Mykola Tsyhanok, 乌克兰士兵, 2022 年 4 月 23 日在哈尔科夫省多甫仁科附近与俄罗斯联邦武装部队交战后失踪;

(f) Serhii Ivashchenko, 2022 年 8 月 31 日在卢甘斯克省斯塔洛柏斯克的家中被俄罗斯联邦武装部队及其附属武装团体绑架;

(g) Artem Kudzhanov, 2022 年 10 月 28 日在卢甘斯克省波哈奇卡的家中被俄罗斯联邦武装部队及其附属武装团体绑架;

(h) Serhii Yeromenko, 2022 年 11 月 22 日在卢甘斯克省新亚历山德里夫卡的家中被俄罗斯联邦武装部队及其附属武装团体绑架;

(i) Viacheslav Lazarchuk、Volodymyr Liashenko、Vasyl Doloban、Mykola Zachenko、Volodymyr Zaviriukhin、Maksym Ditman、Oleksandr Yakovynets、Vladyslav Kryvoruchenko、Vitalii Hlebov、Oleksii Bas、Andrii Hamolia、Andrii Ishchenko、Viktor Kondusha、Serhii Hryhoriuk、Anatolii Karpiv、Vitalii Lysiuk、Oleksandr Lazarenko、Yevhen Kryklyvyi、Oleksandr Marchuk、Yurii Androniichuk、Oleksandr Kushnarov、Dmytro Riazanov、Oleksandr Yurko、Artem Herasymenko、Kyrylo Rehtlane、Dmytro Ivashchuk、Serhii Rozhok、Anatolii Zelenyi、Andrii Horbenko、Oleh Yatchenko、Andrii Karpenkov、Ihor Shevchuk、Stanislav Shostak、Andrii Kovalov、Oleksandr Zakharov、Serhii Dziubenko、Pavlo Omelchenko、Oleksii Valdovskiyi、Viktor Burakovskiyi、Dmytro Ptakh、Ihor Voznyi、Mykhailo Tyshchenko、Oleksandr Stopkan、Andrii Kakhychka、Serhii Matvieiev、Maksym Savitskyi、Ruslan Soroka、Ivan Bezkorovainyi、Yurii Bortniuk、Oleksandr Khomenko、Dmytro Prokopenko、Oleksandr Pivniev、Volodymyr Herashchenko、Serhii Herasymchuk、Dmytro Kyrychenko、Vitalii Pavlenko、Vadym Rakut、Maksym Soltanenko、Vitalii Yavtushenko、Maksym Kobzarenko、Stanislav Tretiakov、Leonsii Popov、Dmytro Yarish、Kostiantyn Symonenko、Oleh Zabolotnii、Ihor Hordashko、Dmytro Osiik、Vitalii Kyrnos、Serhii Pasiieka 和 Oleksandr Boboshko, 乌克兰士兵, 2022 年 7 月 1 日至 2023 年 2 月 27 日期间在卢甘斯克省与俄罗斯联邦武装部队及其附属武装团体交战后失踪。

98. 依照工作组的工作方法, 向乌克兰政府转交了这些案件的副本。还向白俄罗斯政府转交了一起案件的副本。

### 标准程序

99. 工作组依照标准程序向该国政府转交了一起案件, 涉及 Ihor Malyshev, 他于 2021 年 11 月 25 日在斯坦尼茨—卢汉斯卡过境点被俄罗斯联邦武装部队及其附属武装团体绑架。

### 根据来文方提供的资料作出的澄清

100. 根据来文方提供的资料, 工作组决定澄清 26 起案件, 涉及 Volodymyr Kolibaba、Yurii Melnyk、Oleksandr Saponenko、Andrii Starynshchak、Viktor Tkach、Vitalii Papenko、Viktor Linnikov、Dmytro Sobolevskiyi、Oleksandr Honcharov、Maksym Kolesnikov、Viacheslav Likhtanskyi、Yevhen Bondar 和 Serhii Bachevskiyi(已被俄罗斯联邦释放, 获得自由); Viachelsav Horban、Anton Volovych、Serhii Kravtsov、Ivan Kovalchuk、Roman Tretiakov、Viacheslav

Hryhoriev 和 Dmytro Mezhenskyi (其命运和下落已经确定); Vladyslav Herykh、Yurii Mykytiuk、Yehor Kolosovskiy、Oleksandr Fedorov 和 Andrii Lozovytskyi(已经死亡, 遗体已辨认); 以及 Mykhailo Karetnyi(在拘留所关押期间死亡)。

#### 来文方提供的资料

101. 来文方提供了 278 起未决案件的资料, 但被认为不足以澄清有关案件。

#### 其他有关国家提供的资料

102. 2023 年 8 月 1 日和 2023 年 9 月 29 日, 乌克兰政府提供了关于登记在俄罗斯联邦统计数据下的 192 起未决案件的资料。这些资料被认为不足以澄清有关案件。

#### 适用六个月规则

103. 乌克兰政府提供了关于登记在俄罗斯联邦统计数据下的 20 起未决案件的资料。根据这些资料, 工作组决定依照其工作方法适用六个月规则。

#### 澄清

104. 根据政府以前提供的资料, 工作组决定在六个月规则规定的期限到期后澄清 43 起案件。<sup>40</sup> 这些案件涉及 Volodymyr Kucheriavenko、Ruslan Fomin、Mykola Perets、Yevhenii Polishchuk、Vadym Sukach、Denys Haiduk、Yelizar Kholomiiev、Vasyl Zaiarnyi、Anton Sydorenko、Oleh Vorona、Pavlo Horban、Vitalii Korotkov、Pavlo Kryvda、Ivan Kuzmenko、Yan Klymenko、Yurii Marchenko、Ivan Dovhan、Oleksandr Reshynskiy、Petro Dedushko、Vadym Oleinikov、Stanislav Pererva、Vitalii Holdenko、Ivan Sakov、Denys Maholenets、Viktor Futorian、Serhii Lysov、Andrii Tabakin、Vasyl Boiko、Vladyslav Svirchevskiy、Dmytro Vitkovskiy、Serhii Tamaza、Danylo Chebotarov、Artem Sliepukhin、Oleh Krushovskiy、Eduard Soloviov、Yevhen Uhrin、Oleksandr Hanzheiev、Pavlo Kryvenko、Oleksandr Kushnerenko、Volodymyr Sapun、Serhii Topchyi、Volodymyr Simonov 和 Oleh Kolodinskyi, 据报他们已被俄罗斯联邦释放, 获得自由。

#### 联合指控函

105. 2023 年 12 月 27 日, 工作组与其他特别程序机制联合发出一封关于乌克兰自由职业记者 Victoria Roshchyna 的指控函, 她于 2023 年 8 月 3 日在越过边境前往被俄罗斯联邦占领的乌克兰领土途中失踪。<sup>41</sup>

#### 沙特阿拉伯

##### 标准程序

106. 工作组依照标准程序向该国政府转交了一起案件, 涉及 Manahel al-Otaibi, 他于 2022 年 11 月 16 日向 Al-Sahafa 警察局报到后被捕。

<sup>40</sup> A/HRC/WGEID/130/1, 第 57 段。

<sup>41</sup> RUS29/2023.

## 适用六个月规则

107. 政府提供了三起未决案件的资料，根据这些资料，工作组决定依照其工作方法适用六个月规则。

## 澄清

108. 根据政府以前提供的资料，工作组决定在六个月规则规定的期限到期后澄清两起案件。<sup>42</sup> 这两起案件涉及 Eid Hammoud al-Mashhour al-Howeiti 和 Sulaiman Mohammed Moussa al-Howeiti，据报他们现在狱中。

## 西班牙

### 来文方提供的资料

109. 来文方提供了一起未决案件的最新资料，但被认为不足以澄清该案件。

### 停止审议

110. 2023 年 11 月 15 日，来文方转交了关于一起案件的资料，根据这些资料，工作组决定停止审议 Abel Ballart Sans 的案件。

## 阿拉伯叙利亚共和国

### 标准程序

111. 工作组依照标准程序向该国政府转交了 11 起案件，涉及：

(a) 一名据报于 2012 年 3 月 18 日在阿勒颇省的一个检查站被安全部队人员逮捕的个人；

(b) 一名于 2012 年 5 月 25 日在伊德利卜省南郊被叙利亚政权军事安全部队人员逮捕的个人；

(c) 一名于 2012 年在大马士革省的一个检查站被据信属于叙利亚政权安全部队的人员逮捕的个人；

(d) 一名于 2012 年在大马士革—霍姆斯高速公路的一个检查站被据信属于叙利亚政权安全部队的人员逮捕的个人；

(e) 一名于 2014 年在霍姆斯市空军情报局分局被据信属于该分局的人员逮捕的个人；

(f) 一名于 2014 年 1 月 8 日在家中据信属于叙利亚军队的人员逮捕的个人；

(g) 一名于 2011 年 6 月 1 日在阿勒颇移民和护照局大楼被据信属于军事情报局人员逮捕的个人；

(h) 一名于 2011 年 7 月 22 日在卡姆哈纳镇被绑架的个人，据称最后一次被人看到是几年后在 Sednaya 监狱；

<sup>42</sup> [A/HRC/WGEID/130/1](#), 第 62 段。

(i) 一名于 2013 年 3 月 15 日在塔尔图斯省的一个检查站被据信属于情报总局的人员逮捕的个人；

(j) 一名于 2013 年 7 月 2 日在大马士革的住所被据信属于叙利亚国家安全情报部门的人员逮捕的个人；

(k) 一名于 2012 年 10 月在大马士革南部 Al-Yarmouk 营地被据信属于叙利亚政权部队的人员逮捕的个人。

### 联合指控函

112. 2023 年 10 月 18 日，工作组与其他特别程序机制联合发出了一封指控函，涉及 2013 年 4 月在阿拉伯叙利亚共和国塔达蒙发生的 280 多名平民被屠杀事件，该事件于 2022 年曝光，暴行发生后缺乏调查和司法程序，被指控的犯罪人继续逍遥法外。据称，此前遭受强迫失踪的人和 2013 年 4 月 16 日前在塔达蒙附近的检查站被捕的人都是这一事件的受害者。<sup>43</sup>

## 塔吉克斯坦

### 适用六个月规则

113. 土耳其政府提供了一起未决案件的资料(已复制)，涉及一名土耳其公民在向土耳其跨国转移<sup>44</sup>的过程中在塔吉克斯坦失踪。根据这些资料，工作组决定依照其工作方法适用六个月规则。

## 泰国

### 标准程序

114. 工作组依照标准程序向该国政府转交了一起案件，涉及 Pholachi “Billy” Rakchongcharoen, 泰国西碧武里府的一名克伦族环保活动人士，于 2014 年 4 月 17 日被逮捕和强迫失踪。

## 土耳其

### 政府提供的资料

115. 2023 年 9 月 5 日，该国政府转交了一起未决案件的资料，但被认为不足以澄清该案件。

### 迅速干预函

116. 2023 年 11 月 23 日，工作组发出了一封迅速干预函，事关任意干涉“星期六母亲/人民”(Cumartesi Anneleri)的和平集会权，以及逮捕和拘留在伊斯坦布尔加拉塔萨雷广场定期举行的星期六守夜活动参与者的行为。

<sup>43</sup> SYR2/2023.

<sup>44</sup> 关于跨国转移背景下的强迫失踪问题的更多信息，见 [A/HRC/48/57](#)。

## 联合指控函

117. 2023 年 12 月 27 日，工作组与其他特别程序机制联合发出了一封指控函，涉及警方对“星期六母亲/人民”在伊斯坦布尔加拉塔萨雷广场举行的每周和平守夜活动的暴力干涉，以及对参加这些守夜活动的人权维护者的司法骚扰。<sup>45</sup>

## 阿拉伯联合酋长国

### 标准程序

118. 工作组依照标准程序向该国政府转交了一起案件，涉及 Mansour Hassan Ahmad Abdullah al-Ahmadi，他在 2023 年 6 月 5 日向阿布扎比联邦身份、国籍、海关和港口安全局报到后被捕。

### 来文方提供的资料

119. 来文方提供了 11 起未决案件的资料，但被认为不足以澄清有关案件。

## 联合指控函

120. 2024 年 1 月 10 日，工作组与其他特别程序机制联合发出了一封指控函，涉及对 2011 年因呼吁民主改革而被起诉的 133 人中的 84 人提出的新指控。这些人大多是“阿联酋 94”审判中的被告，他们因与恐怖主义有关的指控正在服刑或刚刚服刑期满。指控函还对最近一次称为“阿联酋 87”的审判中据称存在的违规行为表示关切，这些违规行为涉及不遵守公正审判保障以及使用酷刑或其他残忍、不人道或有辱人格的待遇或处罚进行逼供。此外，还对其中一些人在多年被拘留期间健康状况恶化以及至少 12 人被单独监禁表示了关切。<sup>46</sup>

## 美利坚合众国

### 一般性指控

121. 工作组从来文方收到的资料涉及美利坚合众国在执行《保护所有人不遭受强迫失踪宣言》方面遇到的障碍，与在美国寻求保护的移民、难民和寻求庇护者，包括妇女、孕妇和儿童以及残疾人的强迫失踪有关。所收集的资料表明，美国海关和边境保护局、美国海岸警卫队和其他国家机构剥夺了移民、难民和寻求庇护者的自由，将他们单独监禁数日，置于法律保护之外，并剥夺了他们的基本权利，而没有确保他们的家人、法律代理人或其他有合法利益的人能够获得有关其命运或下落的信息(见附件二)。

## 委内瑞拉玻利瓦尔共和国

### 紧急程序

122. 工作组依照紧急程序向该国政府转交了三起案件，涉及：

<sup>45</sup> TUR10/2023.

<sup>46</sup> ARE1/2024.

(a) Carlos Jesús Sánchez Vásquez, 委内瑞拉陆军上校, 据称 2023 年 12 月 14 日在加拉加斯被强迫失踪;

(b) Anyelo Julio Heredia Gervacio, 委内瑞拉陆军上尉, 据称在库库塔(哥伦比亚)和圣安东尼奥德尔塔奇拉(委内瑞拉玻利瓦尔共和国)之间的边境地区被玻利瓦尔国民警卫队逮捕;

(c) Roberto Gazan Abdul-Hadi Casanova, 反对党成员, 拥有委内瑞拉和意大利双重国籍, 于 2023 年 12 月 6 日被捕并被强迫失踪。工作组依照其工作方法向意大利政府转交了该案件的副本。

### 标准程序

123. 工作组依照标准程序向该国政府转交了一起案件, 涉及 Josep Joel Hernández Ortiz, 据称他于 2012 年 8 月 21 日被科学、刑事和法医调查局强迫失踪。

### 根据来文方提供的资料作出的澄清

124. 根据来文方提供的资料, 工作组决定澄清六起案件, 涉及:

(a) Julio César Caldera Ávila 和 Jendré José Caldera Ávila, 据报他们被关押在位于米兰达州苏克雷市博莱塔区的玻利瓦尔国家警察部队被拘留者控制和保护中心(又称“第 7 区”);

(b) Daniela Navas、Yexianni Navas 和 Yexander Josué Caldera Navas, 目前已获自由;

(c) Roberto Gazan Abdul-Hadi Casanova, 被玻利瓦尔国家情报局关押在加拉加斯。

### 联合指控函

125. 2024 年 1 月 24 日, 工作组与其他特别程序机制联合发出了一封指控函, 涉及对 Hugo Rafael Centeno 和 Oswil Centeno 的任意拘留和酷刑, 对 David José Mosquera Pérez 的任意拘留、强迫失踪和酷刑, 以及 Hugo Rafael Centeno 和 David José Mosquera Pérez 随后的死亡。<sup>47</sup>

## 也门

### 联合指控函和答复

126. 2023 年 8 月 25 日, 工作组与其他特别程序机制联合发出了一封指控函, 涉及也门政府实施的机制不充分和不适当, 无法根据所造成伤害的规模和严重程度, 向在也门武装冲突期间严重侵犯人权和严重违反国际人道主义法行为的受害者提供补救和充分有效的赔偿, 并切实调查和起诉侵权行为。<sup>48</sup>

<sup>47</sup> VEN2/2024.

<sup>48</sup> YEM1/2023.

127. 2023年10月18日和30日，也门政府对2023年8月25日发出的联合指控函作出了答复。<sup>49</sup>

## 津巴布韦

### 联合指控函和答复

128. 2023年10月18日，工作组与其他特别程序机制联合发出了一封指控函，涉及津巴布韦最大反对党“公民变革联盟”的活动分子和成员 Womberaishe Nhende 和 Sanele Mukuhlanani 被绑架、随后被强迫失踪和受到虐待的问题。指控还涉及据称人权维护者和律师 Douglas Coltart 和 Tapiwa Muchineripi 受到的逮捕和拘留。<sup>50</sup>

129. 2023年11月15日，津巴布韦政府对联合指控函作出了答复。<sup>51</sup>工作组对这一答复表示欢迎，但仍有一些关切，期待与该国政府继续对话。

## 四. 工作组在本届会议期间审查的关于非国家行为体实施的相当于强迫失踪行为的资料

### 利比亚(事实上的当局)

#### 标准程序

130. 工作组依照标准程序向利比亚国民军转交了一起案件，涉及 Rabie Bader Aldeen Belkhair，他于2013年11月19日在黎波里被据信属于利比亚国民军的武装民兵绑架。依照工作组的工作方法向利比亚政府转交了该案件的副本。

#### 根据来文方提供的资料作出的澄清

131. 根据来文方提供的资料，工作组决定澄清两起案件，涉及 Khodr Khaled al-Nabush 和 Moustafa Mohammad Sharaf，据报他们已被利比亚国民军释放。

#### 来文方提供的资料

132. 来文方提供了一起未决案件的资料，但被认为不足以澄清该案件。

#### 联合紧急呼吁

133. 2023年1月31日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及民族团结政府前国防部长 Al-Mahdi Ibrahim Abdulhamid al-Barghathi 被处决，以及 Abdulaziz Alhasouni Mohammed Imbarak、Ali Mohamed Ali Bukhatwa、Fathi Fouzi Alhasouni Mohammed、Mohammed Faraj Milad al-Baraki、Serag Soliman

<sup>49</sup> 见对 YEM1/2023 的答复。

<sup>50</sup> ZWE2/2023.

<sup>51</sup> 见对 ZWE2/2023 的答复。

Saleh Soliman、Younus Salim Younus Abdulaziz 和 Sanid Sulayman Salih Sulayma 据称被隶属于利比亚国民军的团体拘留后遭强迫失踪，生命受到严重威胁。<sup>52</sup>

## 巴勒斯坦国(事实上的当局)

### 紧急程序

134. 工作组依照紧急程序向该国政府转交了 10 起案件，涉及：

(a) Almog Meir Jan、Evyatar David 和 Shlomi Ziv, 2023 年 10 月 7 日在雷伊姆集体农场附近的 Nova 音乐节上被据信属于哈马斯的武装人员绑架；

(b) Agam Berger, 2023 年 10 月 7 日在纳哈勒奥兹军事基地的住所被据信属于哈马斯的武装人员绑架；

(c) Camel Gat, 2023 年 10 月 7 日在位于 Kibbutz Be'eri 的家中被据信属于哈马斯的武装人员绑架；

(d) Abraham Munder、Ruth Munder 和 Karen Munder, 2023 年 10 月 7 日在尼尔奥兹集体农场的家中被据信属于哈马斯的武装人员绑架；

(e) Ohad Munder Zachri, 2023 年 10 月 7 日在尼尔奥兹集体农场的家中被据信属于哈马斯的武装人员绑架；

(f) Ohad Yahalomi, 2023 年 10 月 7 日在尼尔奥兹集体农场的家中被据信属于哈马斯的武装人员绑架。

135. 依照工作组的工作方法，向巴勒斯坦国当局以及法国和以色列政府转交了这些案件的副本。

### 标准程序

136. 工作组依照标准程序向该国政府转交了两起案件，涉及：

(a) Doron Steinbrecher, 2023 年 10 月 7 日在卡法阿扎集体农场的家中被据信属于哈马斯的武装人员绑架；

(b) Emily Damari, 2023 年 10 月 7 日在位于卡法阿扎集体农场的家中被据信属于哈马斯的武装人员绑架。

137. 根据工作组的工作方法，向巴勒斯坦国当局和以色列政府转交了这些案件的副本。

## 叙利亚民主委员会(事实上的当局)

### 标准程序

138. 工作组依照标准程序向叙利亚民主委员会转交了三起案件，涉及：

(a) 一名于 2018 年 1 月在阿拉伯叙利亚共和国东北部被叙利亚民主力量俘获和拘留的个人；

<sup>52</sup> OTH2/2024.



(b) 一名于 2019 年 3 月在巴古兹被俘，并被关押在叙利亚北部和东部自治政府控制下的阿拉伯叙利亚共和国东北部哈塞克的一个拘留设施的个人；

(c) 一名于 2019 年 3 月在巴古兹被叙利亚民主力量俘获的个人。

#### 来文方提供的资料

139. 来文方提供了四起未决案件的资料，但被认为不足以澄清有关案件。

#### 也门(事实上的当局)

##### 标准程序

140. 工作组依照标准程序，向萨那事实上的当局转交了一起案件，涉及一人在 Al-Mkhadir 区 Asahoul 地区的一个检查站被据信与萨那事实上的当局有关联的武装人员逮捕。

## Annex I

### Pakistan

#### Standard procedure

1. Under its standard procedure, the Working Group transmitted 38 cases to the Government, concerning:

(a) An individual who was allegedly abducted in September 2022 from his place of residence in Khyber Pakhtunkhwa province presumably by the local police.

(b) An individual who was allegedly abducted in September 2022 in Karachi presumably by Pakistani State agents;

(c) An individual who was allegedly abducted in December 2016 in Karachi by officials of the Counter-Terrorism Department;

(d) An individual who was allegedly abducted in July 2016 in his home in Khyber Pakhtunkhwa province presumably by Pakistani State agents;

(e) An individual who was allegedly abducted in June 2019 in Balochistan province presumably by officers of the Pakistani military intelligence;

(f) An individual who was allegedly abducted in June 2011 in Karachi presumably by Pakistani State agents;

(g) An individual who was allegedly abducted in July 2023 in Karachi presumably by Pakistani State agents;

(h) An individual who was allegedly abducted in January 2016 in Rawalpindi by Pakistani State Agents;

(i) An individual who was allegedly abducted in February 2022 in Khyber Pakhtunkhwa province by Pakistani State officials;

(j) An individual who was allegedly abducted in October 2014 in his home in Khyber Pakhtunkhwa province presumably by officials of the Counter-Terrorism Department;

(k) An individual who was allegedly abducted in August 2017 from his home in Khyber Pakhtunkhwa province, presumably by officials of the Counter-Terrorism Department;

(l) An individual who was allegedly abducted in July 2010 in a hospital in Khyber Pakhtunkhwa province, presumably by officials of the Counter-Terrorism Department;

(m) An individual who was allegedly abducted in November 2019 from his place of residence in Sindh province by police officials and officers of the Pakistani Rangers;

(n) An individual who was allegedly abducted in May 2015 in Balochistan province by officials of the Frontier Corps;

(o) An individual who was allegedly abducted in May 2015 in Balochistan province presumably by officials of the Frontier Corps;

(p) An individual who was allegedly abducted in April 2015 in Khyber Pakhtunkhwa province by Pakistani State agents;

(q) An individual who was allegedly abducted in April 2015 in Khyber Pakhtunkhwa province by Pakistani State agents;

(r) An individual who was allegedly abducted in June 2015 in Punjab province by Pakistani State agents;

(s) An individual who was allegedly abducted in 2016 in Khyber Pakhtunkhwa province by the Frontier Corps;

- (t) An individual who was allegedly abducted in April 2017 in Khyber Pakhtunkhwa province by Pakistani State agents;
- (u) An individual who was allegedly abducted in January 2015 in Khyber Pakhtunkhwa province by Pakistani State agents;
- (v) An individual who was allegedly abducted in September 2012 in Islamabad by Pakistani State agents;
- (w) An individual who was allegedly abducted on 21 April 2015 in a hotel in Khyber Pakhtunkhwa province by Pakistani State agents;
- (x) An individual who was allegedly arbitrarily detained by members of the People's Aman Committee, and abducted in January 2015 in Khyber Pakhtunkhwa province by Frontier Corps;
- (y) An individual who was allegedly arbitrarily detained by members of the People's Aman Committee, and abducted in January 2015 in Khyber Pakhtunkhwa province by the Frontier Corps;
- (z) An individual who was allegedly abducted in June 2012 in Peshawar, Khyber Pakhtunkhwa province, by local police officers;
- (aa) An individual who was allegedly arbitrarily detained in 2015 in Peshawar, Khyber Pakhtunkhwa province, by Pakistani State officials;
- (bb) An individual who was allegedly abducted in May 2011 in Khyber Pakhtunkhwa province presumably by Pakistani State agents;
- (cc) An individual who was allegedly abducted in November 2014 in Punjab province by Pakistani State agents;
- (dd) An individual who was allegedly abducted in July 2018 from their place of residence in Sindh province presumably by Pakistani State agents;
- (ee) An individual who was allegedly abducted in June 2022 in Karachi presumably by Pakistani State agents;
- (ff) An individual who was allegedly abducted in November 2022 near his place of residence in Khyber Pakhtunkhwa province presumably by Pakistani State agents;
- (gg) An individual who was allegedly abducted in March 2017 in a restaurant in Punjab province presumably by Pakistani State agents;
- (hh) An individual who was allegedly abducted in January 2017 in his place of residence in Khyber Pakhtunkhwa province by officers of the Counter-Terrorism Department;
- (ii) An individual who was allegedly abducted in February 2023 in his home in Punjab province by officers of the Elite Force;
- (jj) An individual who was allegedly abducted in September 2016 Khyber Pakhtunkhwa province presumably by Pakistani State agents;
- (kk) An individual who was allegedly abducted in August 2016 in his place of residence in Khyber Pakhtunkhwa province by Pakistani State forces;
- (ll) An individual who was allegedly abducted in August 2021 in Punjab province presumably by Pakistani State agents.

## Annex II

### General Allegations

#### Brazil

The Working Group received information from sources concerning alleged violations and obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter, ‘the Declaration’) in Brazil.

1. This general allegation focuses on enforced disappearances commenced during the military dictatorship, between 1964 and 1985; as well as on those that began after the establishment of democracy in Brazil. We would also like to refer to the two general allegations sent in 2019 and 2022 respectively to your Excellency’s Government, for which we are yet to receive replies. We would also like to further call your Excellency’s Government attention to the Committee on Enforced Disappearances Concluding observations on the report submitted by Brazil under article 29 (1) of the International Convention for the Protection of All Persons from Enforced Disappearances, in particular paragraphs 13, 15 and 23 (CED/C/BRA/CO/1) and Report on follow-up to the concluding observations (CED/C/24/2).

#### *Enforced disappearances began during the military dictatorship*

2. It is alleged that the Brazilian State is yet to take full and effective measures to address the serious human rights violations committed during the dictatorship, despite several measures adopted over the years.

3. According to the information received, the first ‘death squads’ formed by civil and military police were established in the 1950s, having significantly expanded their repressive activities, including the perpetration of enforced disappearance during the military dictatorship. It is further alleged that, during the dictatorship, summary executions followed by concealment of the corpses became a systematic practice of the State to combat politically organized opposition.

4. One emblematic example of such practice was the case of the police officer Cláudio Guerra, who was convicted in June 2023 of the concealment of 12 bodies of political opponents forcibly disappeared during the military dictatorship. In the verdict, the Brazilian judiciary – 2ª Vara Federal de Campos de Goytacazes, Seção Judiciária do Rio de Janeiro<sup>1</sup> – recognized the imprescriptible nature of crimes against humanity and the non-applicability of the 6683/1979 Amnesty Law. However, such ruling is rather exceptional as, according to the information received, the overwhelming majority of the judiciary continues to apply the 1979 Amnesty Law and thus impunity continues to prevail for gross human rights violations, including enforced disappearances, committed during the military dictatorship. It is further alleged that legal proceedings that seek the recognition of the unconstitutionality of 1979 Amnesty Law (Actions for non-compliance with fundamental precepts/Ações de Descumprimento de Preceito Fundamental, numbers 153 and 320) are still pending before the Federal Supreme Court for discussion and resolution.

5. According to the information received, Law No. 9140/95 was one of the first attempts by the State to deal with the violations committed during the dictatorship, having established the Special Commission on Political Deaths and Disappearances (hereafter, ‘SCPDD’ or ‘the Commission’). However, it is alleged that the law was at odds with international legal standards, as it established the figure of ‘political disappearance’, applicable only to those whose disappearance was connected to their political activities and whose relatives were able to establish their militant status. As a result, the legislation concerned excluded all other victims of enforced disappearance for reasons other than political. This has led to inaction of State bodies aimed at the implementation of the rights to memory, truth, justice and

<sup>1</sup> <https://static.poder360.com.br/2023/06/sentenca-claudio-guerra-ditadura.pdf>.

reparation, in particular in relation to certain social groups, namely rural and urban workers, indigenous people, the LGBTI population, the residents of *favela* and the Afro-Brazilians. Although these groups were widely affected by the dictatorial violence, including through the practice of enforced disappearance, as the corresponding cases were not classified as ‘political disappearances’, they remained excluded from the transitional justice process and their claims for truth, justice, memory and guarantees of non-repetition remain unanswered.

6. It is further reported that the prevailing official narrative of events fails to fully recognize the role played, and the violations suffered by, historically disadvantaged groups, such as Afro-Brazilians and indigenous peoples, in the struggle against the dictatorial regime. According to the sources, the SCPDD book (report) on right to truth and memory does not specifically offer an analysis through the lenses of such groups.<sup>2</sup> While a subsequent publication was specifically devoted to the Afro-Brazilians,<sup>3</sup> the struggle of indigenous peoples remains unacknowledged. Further to this, the current school curricula remain silent on the contributions of such groups to the fight against dictatorship in Brazil.

7. It is alleged that, during Jair Bolsonaro’s Government (2019-2022), the SCPDD<sup>4</sup> was subject to a series of changes, including the replacement of a large part of its former members with people linked to the Armed Forces or without any track-record in defending human rights. Further to this, at the beginning of 2020, a change in the Commission’s regulations made the search for disappeared people conditional on the expression of interest by the family, contradicting the international obligation of States to act *ex officio* in these cases. Finally, in the last month of the Bolsonaro Government, SCPDD was terminated without having fully completed its mandate to address the crimes committed during the dictatorship, including enforced disappearance.

8. According to the sources one of the last measures adopted to deal with the human rights violations committed during the dictatorship was the establishment of the National Truth Commission (NTC) in 2011. However, it is alleged that the NTC made little progress due to lack of cooperation from the Armed Forces. It is further alleged that the NTC recommendation to establish a permanent body with the task of following up on its actions and recommendations, including the continuation of activities aimed at locating, identifying and handing over to the families the remains of disappeared persons (limiting the interpretation of the notion to that of persons “disappeared for political reasons), have not been implemented to date.

#### *Enforced disappearances in democracy*

9. According to information received, in 1990, 11 young residents of the Acari *favela* in Rio de Janeiro, including minors, were forcibly disappeared by the military police in what become known, at least publicly, as the first case of enforced disappearance reported during democracy. Their fate and whereabouts remain unknown to date and the families’ quest for truth, justice and reparation has gone unanswered. Further to this, two relatives of the disappeared persons, including a leading figure of the so-called “Acari Mothers” group – established to fight against institutional violence – were summarily executed on 15 May 1993, allegedly by police officers involved in the Acari enforced disappearances.<sup>5</sup>

10. According to information received, currently, enforced disappearances continue being perpetrated mostly under the justification of “war on crime” and “war on drug” targeting disproportionately Afro-Brazilians from impoverished communities in the *favelas*. One

<sup>2</sup> See: *Direito à verdade e à memória: Comissão Especial sobre Mortos e Desaparecidos Políticos / Comissão Especial sobre Mortos e Desaparecidos Políticos* Brasília: Secretaria Especial dos Direitos Humanos, 2007, ISBN 978-85-60877-00-3, available here: [http://www.dhnet.org.br/dados/livros/a\\_pdf/livro\\_memoria1\\_direito\\_verdade.pdf](http://www.dhnet.org.br/dados/livros/a_pdf/livro_memoria1_direito_verdade.pdf).

<sup>3</sup> Secretaria Especial de Políticas de Promoção da Igualdade Racial, *Direito à Memória e à Verdade: aos descendentes de homens e mulheres que cruzaram o oceano a bordo de navios negreiros e foram mortos na luta contra o regime militar*, 2009, available: <https://siac.fpabramo.org.br/searchAcao/40>.

<sup>4</sup> Please note that the Working Group addressed your Excellency’s Government with the reference to SCPDD in its 2019 General Allegation.

<sup>5</sup> CIDH, Relatório N° 100/21, Caso 13.691. Admissibilidade e Mérito Cristiane Leite de Souza e outros. Brasil. 20 de maio de 2021.

example is that of Mr. Amarildo de Souza who was forcibly disappeared, in July 2013, after having been taken for investigation by the Rio de Janeiro military police from the *Rocinha favela*, in the context of the so-called “Operation Armada Peace” aimed to combat drug trafficking. His family is yet to learn the truth about his fate and whereabouts and to be awarded any form of reparation, and those who were initially convicted for the crime continue working for the Rio de Janeiro military police.

11. According to the Brazilian Public Security Forum, between 2017 and 2019, an average of 183 persons have gone missing per day in Brazil, of which 62.8% are male and 54.3% black.<sup>6</sup> It is further reported that, between 2003 and 2021, 1.2 million people were registered as missing in the State of Rio de Janeiro alone, of which 64% were male and 70% black. It is however not possible to disaggregate the missing from those who were forcibly disappeared. This is mainly due to the lack of full implementation and operationalization of Law No. 13.812/2019, which establishes the National Policy for the Search for Missing Persons and the National Registry of Missing Persons, entrusted upon the responsibility for the registration and search of the missing, including those forcibly disappeared.

12. The Working Group has also been informed that many of the obstacles concerning enforced disappearance stem from the fact that Brazil is yet to criminalize enforced disappearance as an autonomous crime. The process of adoption of legislation for domestic criminalization of enforced disappearance started in 2011 and is yet to be concluded. It currently awaits placement in the agenda of the Legislative House.

13. The Working Group would like to bring to the attention of the Government of Brazil articles 2, 3, 4, 10 (3), 13, 17, 18, and 19 of the Declaration, which are directly related to the present allegations.

14. Moreover, the Working Group would like to bring to the attention of your Excellency’s Government the thematic study on reparations and enforced disappearances, in particular the obligation to provide redress which includes the guarantees of non-repetition and satisfaction as well as the standards and public policies for an effective investigation of enforced disappearances, in particular the State obligation to investigate enforced disappearances. The Working Group would like to further call your attention to the study on enforced or involuntary disappearance and economic, social and cultural rights; study on best practices on enforced disappearances in domestic criminal legislation; general comment on the right to truth in relation to enforced disappearance and Guiding principles for the search of the disappeared.

15. The Working Group would be grateful for the cooperation and any information that Your Excellency’s Government can provide on the following questions:

(a) Please provide additional information or comments regarding the allegations mentioned herein.

(b) Please provide information on the efforts made by your Excellency’s Government to ensure the rights to memory, truth, justice, reparation and guarantees of non-recurrence for the enforced disappearances began during the dictatorship. In particular on the efforts made:

(i) to ensure that the 1979 amnesty law is not applied by the judiciary to hinder the access to justice and accountability. Please also provide information on the status of actions 153 and 320 pending before the Federal Supreme Court.

(ii) to address the deficiencies of law 9140/95, in particular the restrictive definition of victims of enforced disappearance enshrined therein. Please also provide information on the implementation of the rights to memory, truth, justice and reparation to all victims of enforced disappearances during the dictatorship, regardless of their political affiliation. Please provide any information on the reform of the school curricula to ensure that the narrative of the events is inclusive and recognizes the

<sup>6</sup> See: FÓRUM BRASILEIRO DE SEGURANÇA PÚBLICA. *Mapa dos desaparecidos no Brasil*. São Paulo: Fórum Brasileiro de Segurança Pública, May 2023, available at: <https://forumseguranca.org.br/wp-content/uploads/2023/05/mapa-dos-desaparecidos-relatorio.pdf>.

contributions and the struggles of historically disadvantaged groups in the fight against dictatorship.

(iii) to ensure the reinstatement of the SCPDD and to ensure that it fully complies with its mandate, as well as the measure taken to ensure the right to participation of the victims in the process.

(iv) to implement the recommendations by National Truth Commission, namely the establishment of a permanent task force with the view of addressing the human rights violations, including enforced disappearances, committed during the dictatorship.

(c) Please provide information on the measures taken to ensure the rights to truth, justice, memory and reparation for the victims of enforced disappearance in the *Acari favela*. Please provide information on the measures taken to criminally prosecute those responsible for the enforced disappearances and arbitrary executions concerned.

(d) Please provide any information on measures taken to protect vulnerable and historically disadvantaged groups, such as Afro-Brazilians from going missing or being forcibly disappeared. Please provide information to the measures taken to ensure compliance with the rights to truth, justice, reparation to Mr. Amarildo de Souza's family.

(e) Please provide information on the efforts made to implement and operationalize Law 13.812/2019. In particular:

(f) Whether clear parameters were established for the production of data and public information on the phenomenon of enforced disappearance and on the existence of disaggregated data by sex, age, nationality, place of origin and racial or ethnic origin.

(g) Please also provide any information available on the State authorities responsible for the implementation of Law 13.812 and the existing cooperation mechanisms amongst the different State institutions;

(h) On the accessibility of the mechanisms to the general population and the ways in which cases are presented before the concerned authorities and the remedies provided in case of denial to file a claim.

(i) Please provide any updates on the domestic efforts to criminalize enforced disappearance as an autonomous crime, including any prospect for the Legislative House to include in its agenda the discussion on the draft law on the criminalization of enforced disappearance.

16. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-session report and on its website, where also any response received by your Government will be uploaded.

## China

The Working Group on Enforced or Involuntary Disappearances received information from credible sources concerning reported obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance ('the Declaration') in the People's Republic of China. In particular, certain forms of deprivation of liberty under the national criminal system seem to have the constitutive elements of an enforced disappearance.

1. Sources reported the ongoing use of the 'Residential Surveillance at a Designated Location' ('RSDL') and the *Liuzhi* detention, to deprive persons of their liberty in conditions of prolonged incommunicado detention in conditions tantamount to an enforced disappearance. The Working Group has received renewed concerns and in view of this stresses its calls previously addressed to your Excellency's Government in a General

Allegation,<sup>7</sup> as well as in other Special Procedures communications,<sup>8</sup> to review the conditions of:

(a) The RSDL, which came into effect in 2013 in the revised Criminal Procedure Law, providing the legal grounds for the holding of persons in custody for up to six months without disclosure of their whereabouts or access to lawyers and/or persons with legitimate interest. According to the information received, RSDL detention is being used in particular to curtail civil liberties by targeting human rights defenders, lawyers, civil society and political activist.

(b) The *Liuzhi* detention, which has been in operation since 2018 as a disciplinary measure within the Chinese Communist Party's (CCP) structures and is used to specifically punish any public servant or member of the CCP who are alleged to 'violate duties' or commit 'economic crimes', and against those working within academia, State-owned enterprises, State media, local contractors, or anyone related to any of the above.

2. The Working Group was informed that persons deprived of their liberty under the RSLD and *Liuzhi* systems are held in unofficial facilities, chosen at the discretion of the police or national security officers. In addition, detainees are kept isolated in solitary confinement and incommunicado detention for prolonged periods, where they face a heightened risk of ill-treatment. According to the information received, authorities do not disclose the whereabouts of the detainees and therefore persons with a legitimate interest, i.e., family members or lawyers of those detained are not granted information on their loved ones' fate, whereabouts and state of health. Furthermore, according to the information received, the detainees' rights to access legal counsel of choice or options to appeal the measure are withheld. Such conditions of detention place individuals outside the protection of the law, which is an inherent consequence of an enforced disappearance.

3. Official data disclosed by your Excellency's Government acknowledge the use of RSDL in some 23,700 instances. However, information the Working Group has received estimate that for the period 2013 to 2021, the figure is closer to 85,000. There is also an alleged progressive increase in the use of the two detention systems since their introduction - according to current estimations at least 104,492 people have been subjected to deprivation of liberty under the RSLD and *Liuzhi* systems (47,291 into RSDL and 57,201 into *Liuzhi*).

4. Since 2017, the Working Group has consistently continued to receive and raise with your Excellency's Government the alarming information about the prolonged incommunicado detention in "Vocational Education and Training Centres" (VETC), camps and facilities in the Xinjiang Uyghur Autonomous Region ('XUAR', or Uyghur Region), of Uyghurs and Turkic Muslims.<sup>9</sup> Sources reported that referrals to these facilities, whether for criminal or administrative reasons, occur without proper due process. Moreover, the sentencing lacks transparency, and detainees are held for an indeterminate period. According to information received, detainees in XUAR face a heightened risk of being subjected to forced labour, torture and other ill-treatment. The Working Group is seriously concerned that the detention regime in VETC facilities has no basis in international law and, particularly, in the Declaration.

5. The Working Group has also registered the concerns from reliable sources regarding an alarmingly high number of extraterritorial abductions and transnational transfers (involving arbitrary deprivations of liberty and renditions) from the Mekong region and neighbouring countries of persons who end up in secret detention or other forms of deprivation of liberty. Moreover, information shared with the Working Group demonstrates a systemic pattern pursuant to which such practices are designed to pressure and to control dissenting groups seeking protection abroad, including people belonging to ethnic and religious minorities, political dissidents, human rights defenders, journalists, refugees, and asylum seekers.

<sup>7</sup> See 115th Session [General Allegation](#) (2018); 119th Session [General Allegation](#) (2019).

<sup>8</sup> See [OL CHN 15/2018](#), [UA CHN 3/2017](#).

<sup>9</sup> See [A/HRC/39/46](#), para 88; [A/HRC/42/40](#), para 69; [A/HRC/45/13](#), para 46; [A/HRC/48/57](#), para 71; [A/HRC/51/31](#), para 48; [A/HRC/54/22](#), para 68.



6. The Working Group was informed that individuals whose family members allegedly are or were forcibly disappeared by Chinese authorities and believed to be detained in the XUAR have no effective remedy at their disposal to establish the fate and whereabouts of their loved ones. They reportedly rarely receive official confirmation regarding their family member's status, and efforts to gather information have been largely unsuccessful. Very few detainees are allowed contact with the outside world, and even nominally 'free' Uyghurs living in XUAR have been effectively forbidden to speak with their family or friends abroad. Pursuant to the information received by the Working Group, Uyghurs, both in the country and overseas, are consistently deprived of their right to free speech, as well as their freedom to seek, receive and impart information and their right to know the truth about the fate and whereabouts of their loved ones.

7. The Working Group would like to bring to the Government's attention articles 2, 3, 8, 9, 10 to 13 and 19 of the Declaration, which are directly related to the present allegations.

8. The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

(a) Please provide any additional information and any comment on the allegations mentioned above.

(b) Please provide information on the measures implemented by your Excellency's Government to safeguard the civil and political rights of ethnic minorities, human rights defenders, and political activists. Please elucidate how these efforts align with international human rights law and ensure the respectful treatment of these individuals.

(c) Please provide information on how your Excellency's Government ensures that families can realise their right to know the truth about the fate and whereabouts of their family members who are deprived of their liberty pursuant to Article 10 of the Declaration and what steps your Excellency's Government is putting in place to ensure that information about the fate and whereabouts of persons deprived of their liberty and access to their loved ones, as well as to a legal counsel of choice are guaranteed.

(d) Please illustrate the applicable procedures for the arrest, deportation and deprivation of liberty of nationals residing in third countries and how your Excellency's Government ensures they are compatible with international legal obligations. In particular, provide information on the protective measures put in place when deportation and return processes concern human rights defenders, political activists, ethnic minorities, and refugees who seek asylum in neighbouring countries.

(e) Please provide information on how your Excellency's Government ensures that the family members of individuals living overseas have the right to communicate with their relatives who are deprived of liberty without fear of threats and reprisals.

9. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-session report and on its website, where also any response received by your Excellency's Government will be uploaded.

## **Iraq**

The Working Group received information from the sources concerning obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter, 'the Declaration') in Iraq.

1. The Working Group received allegations concerning the draft law on missing persons (hereafter, 'the draft law') shared by the Office of the Iraqi Prime Minister to the Iraqi House of Representatives in 2023. According to the information received, the draft law fails to codify enforced disappearances as an autonomous crime, which is the responsibility of Iraq under the International Convention for the Protection of All Persons from Enforced Disappearances (hereafter, 'the Convention'), ratified by Iraq in 2010.

2. Sources informed the Working Group that the draft law defines missing persons as someone who went missing, with whom contact is lost, and whose fate is unknown. Thus, the draft law does not implement the definition of enforced disappearances as provided in the Declaration and in Article 2 of the Convention. The Committee on Enforced Disappearances (hereafter, ‘the Committee’) has already previously recommended the Iraqi authorities to incorporate the offense of enforced disappearances into domestic criminal legislation as an autonomous offence (CED/C/IRQ/OAI/1).

3. According to the unofficial translation of the draft law provided to the Working Group, the aims of the draft law mentioned in Article 4 are of a purely humanitarian nature, i.e. to: (1) reduce the number of missing persons, (2) provide assistance for missing persons, (3) facilitate procedures establishing the truth of missing persons, (4) simplify the procedures of receiving reports and disclosing information, and (5) enhance awareness, assisting families in submitting reports, as well as setting up mechanisms to provide redress. While the Working Group supports such efforts, in case the persons went missing as the result of an enforced disappearance, State authorities are also under obligations to prevent these violations, conduct an investigation, prosecute perpetrators, and provide reparation to victims.

4. The draft law foresees the establishment of a Supreme National Commission on Missing Persons (hereafter, ‘the Commission’). However, there are several shortcomings in the design of the Commission, including:

- (a) its independence and confidentiality are not sufficiently secured, which is of crucial importance to protect victims and the information provided by them,
- (b) it does not have investigative powers,
- (c) it is unclear how the Commission will interact with law enforcement, other Government and international agencies, and the judiciary,
- (d) participation of victims in the Commission’s work and procedures is not secured.

5. Sources have informed the Working Group that the draft law has not been adopted yet, but there is confusion around its status, even within the House of Representatives. This affects the families of missing and forcibly disappeared persons negatively, as they do not know what to expect. Importantly, families should be included in the design of the law, as well as in its implementation, so that their needs can be addressed.

6. As such, the draft law as reported to the Working Group by sources is in blatant contradiction with the recommendations received by Iraq from the, which conducted a visit to Iraq in November 2022 (CED/C/IRQ/VR/1). Among the priority recommendations were establishing and implementing the basis for effective searches and investigations (paras. 3–22) and measures to eradicate impunity (paras. 23–36).

7. The Working Group is further concerned by statements of governmental officials in the process. According to information received, in August 2023, the Human Rights Advisor to the Prime Minister announced at the Dialogue Forum on Disappearances in the House of Representatives that there was not a single case of enforced disappearance in the country. However, there are currently 16,428<sup>10</sup> unresolved cases concerning Iraqi authorities that the Working Group is dealing with under its humanitarian mandate, as well as 575<sup>11</sup> unresolved cases by the Committee. This is only the number of disappearances that were brought to the attention of the Working Group and the Committee – the actual number of enforced disappearances is most likely much higher.

8. The Working Group would like to bring to the Government’s attention articles 3, 4, 5, 13, 16 and 19 of the Declaration, which are directly related to the present allegation.

9. Moreover, the Working Group would like to bring to the attention of your Excellency’s Government the Guiding Principles for the Search for Disappeared Persons and, in particular, in Principle 5 (the search should respect the right to participation), Principle 13

<sup>10</sup> See A/HRC/54/22.

<sup>11</sup> See A/78/56.

(the search and the criminal investigation should be interrelated) and Principle 15 (the search should be independent and impartial).

10. The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

(a) Please provide any additional information, any comment you may have on the above-mentioned allegations, as well as information on the official status of the draft law.

(b) Please provide information on any legislative initiative or practical measures that would lead to investigations and to prosecution of perpetrators of enforced disappearances.

(c) Please provide information on steps taken to ensure the families right to participation, as well as the involvement of victims' associations in the process of drafting laws and procedures addressing missing persons and enforced disappearances, including in the draft law.

(d) Please provide information on initiatives leading to providing redress and compensation to victims of enforced disappearance.

(e) Please provide information on how the authorities plan to incorporate the autonomous crime of enforced disappearance into domestic law.

11. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-sessional report and on its website, where also any response received by your Government will be uploaded.

## Libya

The Working Group received information from the sources concerning obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance (hereafter, 'the Declaration') in Libya.

1. The Working Group received alarming allegations related to the arbitrary deprivation of liberty and enforced disappearance of migrants, refugees and asylum-seekers in Libya, including women, children (often unaccompanied), and disabled persons. The information gathered suggests that the mentioned violations take place either in clandestine detention centres, or in official detention centres in Libya managed by the Libyan Directorate to Combat Illegal Migration, including the centres of Abu Salim and Ain Zara. In both cases, persons deprived of their liberty are reportedly subjected to abuses and torture and placed outside the protection of the law, while there do not seem to be effective remedies to ensure that perpetrators are held accountable and that victims obtain redress.

2. According to the information received by the Working Group, migrants, refugees and asylum-seekers arrested in urban settings or intercepted at sea in their attempts to leave Libya, are deprived of their liberty and frequently held captive for months in clandestine detention centres (including private buildings, hangars or warehouses) by militias or other armed groups, acting with the direct or indirect support of the State. The people held captive in these circumstances, which amount to secret detention, are placed outside the protection of the law and deprived of the possibility to exercise any of their fundamental rights.

3. In other cases, upon detention, migrants, asylum-seekers and refugees are brought to officially recognised detention centres managed by the Libyan Directorate to Combat Illegal Migration across Libya, five of which are located in Tripoli. Pursuant to data confirmed also by the International Organization for Migration and the United Nations High Commissioner for Refugees, around 75% of the more than 3000 people held in these facilities would be in the five detention centres located in Tripoli.

4. However, sources informed that the official registers and records of persons deprived of liberty of the said detention centres are not complete nor up-to-date and access to them would be extremely difficult. The situation is reportedly worsened by the fact that, according to the information received, upon arrest or transfer to the detention centre, detainees would

be routinely stripped of their documents and personal belongings (including mobile phones). This practice jeopardises the compilation and maintenance of accurate data on all persons deprived of their liberty and makes contact with the outside world virtually impossible. At the same time, when any person with a legitimate interest seeks to have access to information on persons held in the said detention centres, the lack of accurate registration or incomplete data further complicates the determination of their fate and whereabouts.

5. According to the information received, persons deprived of their liberty in official and unofficial detention centres are usually not enabled to communicate with, and be visited by, their families, counsel or any other person of choice, or consular authorities. With regard to official detention centres in particular, the Working Group has learned that, albeit those held there are foreigners, only a few embassies of the countries of origin are accessing the facilities to provide consular services to their nationals. In general, as it will be further detailed below, access of civil society organisations to these detentions sites is severely restricted.

6. Sources informed the Working Group that persons placed in both official and unofficial detention centres are subjected to inhumane living conditions, including chronic overcrowding, poor sanitation and lack of basic hygiene, insufficient access to healthcare, inadequate food and inconsistent access to clean water and no possibility for infection prevention measures. Reportedly, women, including pregnant and lactating, children, including unaccompanied and new-borns, are held in conditions that are especially detrimental to their physical and mental health. According to the information received, the circumstances described, the lack of contact with the outside world and the indefinite duration of their detention cause serious psychological damage to the persons concerned.

7. Moreover, the Working Group was informed that persons placed in official and unofficial detention centres are frequently subjected to abuses and gross human rights violations, including torture, forced labour and sexual violence. Reportedly, even in cases where migrants held in official or unacknowledged detention sites eventually regain their freedom, they face long-lasting consequences for the harm suffered, including post-traumatic stress disorder. According to the sources, the Government does not offer any effective remedy or programme of psychosocial support to address the described situations.

8. The Working Group learned that, in some instances, the conditions or the abuses referred to in the previous paragraph, have led to the death of persons deprived of their liberty in both official and unofficial detention centres. However, when this happened, no accurate investigations and forensic examinations were carried out to ascertain and record the circumstances and cause of death and the destination of the remains, thus hampering the right to know the truth of relatives of these persons. It is equally unclear whether authorities undertake any measures to preserve the mortal remains and to facilitate their subsequent identification and return to the countries of origin.

9. Furthermore, sources informed that civil society organisations aiming at monitoring conditions of detention and assisting persons held captive in facilities managed by the Libyan Directorate to Combat Illegal Migration experienced hindrances in their activities and are often denied access to the detention centres. The reported situation further isolates persons deprived of their liberty and exposes them to the risk of enforced disappearance.

10. The Working Group was informed that, reportedly, persons held in the said detention centres would not be enabled to bring proceedings before competent authorities to determine whether their deprivation of liberty is lawful and, when authorities decide to transfer or expel or extradite them, they would be unable to challenge in any ways such decisions, including when they may amount to a violation of the principle of *non-refoulement* and expose them to the danger of enforced disappearance.

11. Finally, according to information received by the Working Group, there are no instances of investigations on the above-mentioned circumstances and abuses, which are reportedly covered by impunity and there would not be any effective remedy available to obtain redress for the harm suffered in the detention centres concerned.

12. The Working Group would like to bring to the Government's attention articles 3, 9, 10 to 13 and 19, of the Declaration, which are directly related to the present allegations.

13. Moreover, the Working Group would like to bring to the attention of your Excellency's Government the obligations spelled out in its thematic report on enforced disappearances in the context of migration, as well as in the Guiding Principles for the Search for Disappeared Persons and, in particular, in Principles 4 and 9, which respectively establish that the search should follow a differential approach, especially when women, girls and children are concerned, and should take into account the particular vulnerability of migrants. We recall also the general comments on women affected by enforced disappearances and on children and enforced disappearances.

14. The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

(a) Please provide any additional information and any comment you may have on the above-mentioned allegations.

(b) Please provide detailed information on the measures taken to uphold the prohibition of secret detention and to carry out investigation into the allegations of the existence of clandestine detention centres where migrants, refugees and asylum-seekers are held across the country, to locate such centres and free and assist all those arbitrarily held there, and to identify the persons who set up and run these facilities, prosecute and hold them accountable.

(c) Please provide detailed information on the legal grounds for indefinitely depriving the liberty of migrants, asylum-seekers and refugees and holding them in facilities managed by the Libyan Directorate to Combat Illegal Migration without access to due process rights.

(d) Please provide detailed information on whether official up-to-date registers of all persons deprived of their liberty in detention centres managed by the Libyan Directorate to Combat Illegal Migration are maintained and, on the measures, taken to ensure that relatives of persons deprived of their liberty, their counsel or any other person having legitimate interest have access to the information contained in such registers.

15. Please provide information on the measures adopted to ensure that any person deprived of liberty held in facilities managed by the Libyan Directorate to Combat Illegal Migration is authorised to communicate with, and be visited by, his or her family, counsel or any other person of choice, including consular authorities.

16. Please provide detailed information on the measures adopted to ensure that those held in facilities managed by the Libyan Directorate to Combat Illegal Migration live in humane conditions and have access to medical assistance and care, food and clean water. Moreover, kindly inform on the measures taken to ensure that they are not subjected to abuses and gross human rights violations, including torture, sexual violence and forced labour and that allegations in this regard are subjected to prompt, independent, impartial, thorough and effective investigations and those responsible are prosecuted and sanctioned.

17. Please provide detailed information on the measures taken when a person held in one of the detention facilities managed by the Libyan Directorate to Combat Illegal Migration dies to determine and register the circumstances and cause of death, and the mark of the place where the mortal remains are buried.

18. Please provide detailed information on the measures adopted to ensure that civil society organisations aiming at assisting persons deprived of their liberty in facilities managed by the Libyan Directorate to Combat Illegal Migration are regularly granted access to the detention centres and that their activities are not subjected to arbitrary or unlawful interferences and restrictions.

19. Please provide detailed information on the measures adopted to ensure that persons deprived of their liberty in facilities managed by the Libyan Directorate to Combat Illegal Migration are entitled to take proceedings without delay before a court to determine the lawfulness of their deprivation of liberty and to challenge decisions of transfer, expulsion or extradition that may expose them to the danger of enforced disappearance, in contravention of the principle of *non-refoulement*.

20. Please provide detailed information on how your Government ensures that any person having knowledge or legitimate interest, who alleges that a person has been subjected to enforced disappearance is able to lodge a complaint to a competent and independent State authority. Furthermore, please inform on how your Excellency's Government ensures that enforced disappearances are promptly, thoroughly and impartially investigated, even if there has been no formal complaint.

21. Please provide information on the measures taken to guarantee that any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to, or participates in, an enforced disappearance, is held criminally responsible.

22. Please provide detailed information on the measures taken to cooperate with other States, including the States of origin, transit or destination of migrants, refugees and asylum-seekers, in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and respecting and returning their remains. In particular, kindly provide information on the measures taken to ensure that foreigner persons deprived of their liberty in Libya are allowed to communicate with their consular authorities.

23. Please provide information on the measures taken to search and find disappeared persons – in particular migrants, refugees and asylum-seekers – in line with the Guiding Principles for the Search for Disappeared Persons.

24. Please provide detailed information on the applicable legislation and the measures undertaken to ensure that any victim of enforced disappearance (thus including the disappeared person and any other person having suffered a direct harm) obtains adequate compensation and integral reparation, including measures of rehabilitation and satisfaction, for the harm suffered.

25. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-session report and on its website, where also any response received by your Government will be uploaded.

## **United States of America**

The Working Group received information from sources concerning obstacles encountered in the implementation of the Declaration on the Protection of all Persons from Enforced Disappearance (hereafter, 'the Declaration') in the United States of America.

1. The Working Group received alarming allegations related to enforced disappearance of migrants, refugees, and asylum-seekers, including women, pregnant women and children, and disabled persons seeking protection in the United States of America. The information gathered suggests that Customs and Border Protection (CBP), the U.S. Coast Guard, and other State agents have deprived migrants, refugees, and asylum-seekers of their liberty, subjecting them in *incommunicado* detention for days, placing them outside of the protection of the law and depriving them of fundamental rights, without ensuring that families, legal representatives or others persons with a legitimate interest have access to information about their fate or whereabouts. Notably, a deprivation of liberty followed by a refusal to acknowledge it or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, regardless of the duration of the said deprivation of liberty or concealment, amounts to enforced disappearance.

### **Allegations of Enforced Disappearance by Customs and Border Protection**

2. According to sources, in April 2023, the United States Government implemented new policies to facilitate the expedited removal of individuals detained by CBP agents. Under these new policies, immigration officials begun to conduct screenings of asylum-seekers in CBP custody, known as 'credible fear interviews' (hereafter, CFIs). The purpose of the CFIs is to determine if the asylum-seeker has a credible fear of returning to their country of origin.

3. The Working Group received information that CBP has no system for family members or legal representatives to locate or identify individuals held in custody by CBP. Additionally, CBP does not permit visits by legal representatives or family visits to detention centers. The absence of a system, according to sources, makes contact with the outside world virtually impossible, prevents persons with a legitimate interest from accessing information about migrants, refugees, and asylum-seekers in detention, and further impedes the determination of their fate and whereabouts.

4. At the same time, according to the information submitted to the Working Group, individuals held *incommunicado* must frequently persuade officials that they have a viable asylum claim, often without the assistance of an attorney or family members. Pursuant to the new policies, asylum-seekers must demonstrate a “significant possibility” that their asylum claim will be successful before an immigration judge to avoid immediate deportation while in CBP custody. Deportation may expose them to the risk of enforced disappearance in their country of origin.

5. Furthermore, the Working Group was informed that, in accordance with CBP policy, individuals “should generally not be held for longer than 72 hours in CBP hold rooms or holding facilities.”<sup>12</sup> However, in one instance brought to the attention of the Working Group, CBP held two Cuban asylum-seekers *incommunicado* for nearly ten days, although they had signed representation agreements, and their attorneys made multiple requests for information about their clients’ whereabouts and asked to meet with them. Counsels only learned their clients’ location after their clients were deported and called the attorneys from Mexico, where they could face the risk of enforced disappearance.

6. Special concerns are related to children’s situation. The Working Group was informed that CBP officials routinely separate families without providing separated family members with a way to contact or communicate with each other. One group offering legal services documented over 1,000 incidents of family separation while in CBP detention in California during a three-month period in 2023. Sources described several examples of family separation, where young children are separated from their parents. One example provided by sources to the Working Group involves an 11-year-old Colombian boy who was separated from his parents in 2022 and processed as an unaccompanied minor. In each of the examples provided, separated family members were unable to contact or obtain information about their loved one’s fate or whereabouts for days or weeks. This Working Group has underscored the torture and the emotional and psychological distress that uncertainty about the fate of a loved one generates for the family members of forcibly disappeared persons, especially when children are involved.<sup>13</sup>

7. Another example provided by sources to the Working Group involves an 18-year-old Venezuelan teenager with autism who was separated from his parents and three-month-old baby sister by Border Patrol in September 2023, despite his mother’s pleas to keep them together and documentation of his disability. She was told: “it doesn’t matter that he has autism, he is eighteen.” Two days later, the parents and the baby were released and were denied information on the whereabouts of their older son. Two additional days later, the parents received a phone call from their son, who informed them that he had been returned to Reynosa, Mexico, the city they had fled after their relatives had been kidnapped.

8. According to the information received, detainees are subjected to inhumane and degrading conditions causing considerable physical and psychological suffering. The sources described the death of a young girl in CBP custody after she was denied medical care and asylum-seekers abandoning their claims due to the detention conditions. The submission also referred to reports by human rights organizations that document the detention of men, women, and children, including infants, in frigid holding cells and 160 cases of misconduct and abuse of asylum applicants by CBP agents and other immigration officials.

<sup>12</sup> U.S. Customs and Border Protection, National Standard on Transport, Escort, Detention and Search, 14 (2015) <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf>.

<sup>13</sup> See A/HRC/45/13/Add.3, para. 60; A/HRC/30/38/Add.5, paras. 23-32.

### **Allegations of Enforced Disappearance by U.S. Coast Guard and Military**

9. This Working Group also received allegations of “so called” short-term enforced disappearances committed by the U.S. Coast Guard or U.S. military. According to the information received, the U.S. military conducts maritime interception operations and detains migrants, refugees, and asylum-seekers on military ships and at an offshore detention center. The U.S. Coast Guard intercepts individuals attempting to migrate to the United States by sea. According to the submission received by the Working Group, in fiscal year 2022, the U.S. military and Coast Guard intercepted more than 12,000 Haitians and Cubans in this manner. According to the sources, agencies that intercept vessels have no system for family members or legal representatives to locate or identify persons deprived of their liberty and the detainees are not provided the opportunity to contact family or legal counsel. Under the Declaration, the definition of enforced disappearance includes situations when persons are detained, and the authorities subsequently refuse to provide information about the whereabouts of those persons or conceal their fate or whereabouts regardless of the duration of the detention.

10. The Working Group was informed that the U.S. military and Coast Guard often detain migrants, refugees, and asylum-seekers in cramped, unhealthy conditions without access to adequate food, water, or medical attention, keeping them in *incommunicado* detention for hours or days, exposing them to the risk of enforced disappearance. According to the source, the U.S. military has commonly detained hundreds of migrants on crowded flight decks for days without access to adequate sanitation, shelter, or security and with no means to communicating with relatives about their whereabouts or wellbeing.

11. In 1993, the U.S. Supreme Court held in *Sale v. Haitian Centers Council, Inc.* that Haitians intercepted on the high seas could be repatriated by U.S. officials without any determination of their refugee status or protection needs. Sources informed the Working Group that detained individuals are visually inspected to determine if they have a credible fear, and most groups are returned to their country of origin without access to legal counsel. Such decisions violate the principle of *non-refoulement* and expose them to the risk of enforced disappearance.

### **Allegations regarding “Remain in Mexico” and Title 42 program**

12. In other cases, according to the information submitted to the Working Group, thousands of migrants have been forced to stay in Mexico under the so-called “Remain in Mexico” program and Title 42 policy.<sup>14</sup> Sources provided the Working Groups with dozens of examples involving individuals who were returned to Mexico to stay in that country while their asylum applications were being processed in the United States, violating the principle of *non-refoulement*. These individuals were exposed to the risk of enforced disappearance and other crimes, such as torture, sexual violence and kidnaping, among others. According to the information received, some of them were detained by Mexican law enforcement agents, including immigration officials, and handed over to non-state actors who held them for ransom. Many of the cases presented by the sources concern children and pregnant women.

13. Finally, according to information received by the Working Group, there are no instances of investigations of *incommunicado* detention by U.S. authorities, which reportedly remain in impunity. Nor do the victims have access to an effective remedy available to obtain redress for the harms suffered while in detention.

<sup>14</sup> The “Remain in Mexico” (officially called the Migrant Protection Protocols) program at the Mexico-United States border was first enacted in 2019 by the Trump administration and restarted by the Biden administration in 2021. The program requires certain asylum-seekers to wait in Mexico while their claims are adjudicated in US immigration courts. Between March 2020 and May 2023, Title 42, (a U.S. policy that prohibited the entry of non-citizens at U.S. land borders based on public health concerns, also impeded access to asylum procedures and the identification of potential international protection needs, which may be contrary to the State’s international obligations), allowed U.S. immigration officials to quickly remove migrants from the United States on the grounds of preventing the spread of COVID-19.



14. The Working Group would like to bring to the Government's articles 2, 3, 7, 8, 9 to 13 and 19 of the Declaration, which are directly related to the present allegation.

15. The prohibition of enforced disappearance has attained the status of *jus cogens*, and as provided in article 7 of the Declaration, no circumstances whatsoever may be invoked to justify enforced disappearances. In accordance with article 10 of the Declaration, States must ensure that accurate information on the detention of persons and their place or places of detention, including transfers, is made promptly available to their family members, their counsel or any other persons having a legitimate interest in the information.

16. Moreover, the Working Group would like to bring to the attention of your Excellency's Government the obligations spelled out in its thematic report on enforced disappearances in the context of migration, as well as in the Guiding Principles for the Search for Disappeared Persons and, in particular, in Principles 4 and 9, which respectively establish that the search should follow a differential approach, especially when women, girls and children are concerned, and should take into account the particular vulnerability of migrants. We also recall the general comments on women affected by enforced disappearances and on children and enforced disappearances.

17. The Working Group would be grateful for your Excellency's Government cooperation and observations on the following questions:

(a) Please provide any additional information and any comment on the allegations mentioned above.

(b) Please provide information on the measures adopted to ensure that no migrants, refugees, or asylum-seekers are held in *incommunicado* detention without the means to communicate with legal experts, family members, or any other person having a legitimate interest to have access to information on their fate and whereabouts.

(c) Please provide information on whether official, up-to-date, registers of all persons deprived of their liberty are maintained in every place of detention and the measures taken to ensure that relatives of persons deprived of their liberty, their counsel, or any other person having legitimate interest have access to the information contained in such registers.

(d) Please provide detailed information on the legal grounds for maintaining migrants, refugees, and asylum-seekers in *incommunicado* detention by CBP, the U.S. military or the U.S. Coast Guards.

(e) Please provide information on the measures adopted to ensure that any person deprived of liberty by CBP, the U.S. military, or the U.S. Coast Guard is authorized to communicate with, and be visited by, his or her family, counsel or any other person a legitimate interest, including consular authorities.

(f) Please provide detailed information on the measures adopted to ensure that those detained by CBP, the U.S. military, or the U.S. Coast Guard who are detained in inhumane conditions have access to medical assistance and care, food, and clean water. Also, please provide information on special measures taken for women, pregnant women, children, and disabled persons. Moreover, kindly inform on the measures taken to ensure that they are not subject to torture, abuses or any gross human rights violations and that allegations in this regard, are subject to prompt, independent, impartial, through and effective investigations and those responsible are prosecuted and sanctioned.

(g) Please provide detailed information on the measures adopted to ensure that civil society organisations aiming at assisting persons deprived of their liberty by CBP, the U.S. military, or the U.S. Coast Guard are regularly granted access to the detention centres and that their activities are not subjected to arbitrary or unlawful interferences and restrictions.

(h) Please provide detailed information on the measures adopted to ensure that persons deprived of their liberty in facilities managed by CBP, the U.S. military, or the U.S. Coast Guard are entitled to take proceedings without delay before a court to determine the lawfulness of their deprivation of liberty and to challenge decisions of transfer, expulsion or extradition that may expose them to the danger of enforced disappearance, in contravention of the principle of *non-refoulement*.

(i) Please provide detailed information on how your Government ensures that any person having knowledge or legitimate interest, who alleges that a person has been subjected to enforced disappearance is able to lodge a complaint to a competent and independent State authority. Furthermore, please inform on how your Excellency's Government ensures that enforced disappearances are promptly, thoroughly, independently and impartially investigated, even if there has been no formal complaint.

(j) In case migrants and asylum-seekers are deported or transferred without the opportunity of presenting before the U.S. authorities a complaint for the violations suffered during their detention or during their *refoulement* to their country or another country, please provide information if the United States embassies or consulates have any special mechanism for receiving these complaints from the country where the person has been deported or relocated.

(k) Please provide detailed information on the measures taken to cooperate with other States, including the States of origin, transit or destination of migrants, refugees and asylum-seekers, in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and respecting and returning their remains. In particular, kindly provide information on the measures taken to ensure that foreign persons deprived of their liberty in the United States are allowed to communicate with their consular authorities.

(l) Please provide detailed information on how the family of a refugee, an asylum-seeker or a migrant who has been detained by US authorities is able to obtain information about his or her relatives' fate and whereabouts from the country of origin or the country where it is located.

(m) Please provide information on the measures taken to search and find disappeared persons – in particular migrants, refugees and asylum-seekers – in line with the Guiding Principles for the Search for Disappeared Persons.

(n) Please provide information on the measures taken to guarantee that any person who commits, orders, solicits, or induces the commission of, attempts to commit, is an accomplice to, or participates in an enforced disappearance, is held criminally responsible.

(o) Please provide detailed information on the applicable legislation and the measures undertaken to ensure that any victim of enforced disappearance (thus including the disappeared person and any other person having suffered direct harm) obtains adequate compensation and integral reparation, including measures of rehabilitation and satisfaction, for the harm suffered.

18. The Working Group requests your Excellency's Government to provide a response to the above questions within 60 days. The text of the general allegation will be published along with the Working Group's post-session report and on its website, where also any response received by your Government will be uploaded.

## Annex III

### Press releases and statements

1. On 12 October 2023, the Working Group, together with other Special Procedures mechanisms, issues a press release condemning the targeted and deadly violence directed at civilians in Israel and violent and indiscriminate attacks against Palestinian civilians in Gaza and a further tightening of the unlawful blockade, which will have devastating impacts on the whole civilian population.<sup>1</sup>
2. On 17 October 2023, the Working Group, together with other Special Procedures mechanisms, issued a press release calling on China to consider alternative solutions to forcible repatriation of North Korean escapees in line with the principle of non-refoulement guaranteed under international law.<sup>2</sup>
3. On 18 October 2023, the Working Group endorsed the statement of the Special Rapporteur on the situation of human rights defenders calling on China to release the human rights defender Guo Feixiong, whose health has been seriously deteriorating in prison.<sup>3</sup>
4. On 18 October 2023, the Working Group, together with other Special Procedures mechanisms, issued a press release urging the Government of Sri Lanka to ensure that the proposed counter-terrorism bill meets international human rights standards.<sup>4</sup>
5. On 19 October 2023, the Working Group issued a press release announcing its official visit to the African Union organs with judicial and human rights mandates and other regional bodies to be conducted from 21 to 26 October 2023.<sup>5</sup>
6. On 30 November 2023, the Working Group, together with other Special Procedures mechanisms, issued a press release concerning the alarming escalation of violence in Sudan, particularly sexual violence committed in the conflict, primarily by the Rapid Support Forces.<sup>6</sup>
7. On 8 December 2023, the Working Group, together with other Special Procedures mechanisms, issued a press release urging the UN member States to use all measures at their disposal and their influence to promote an immediate and permanent ceasefire in Gaza.<sup>7</sup>
8. On 14 December 2023, the Working Group, together with other Special Procedures mechanisms, issued a statement calling for a permanent ceasefire in Gaza to protect the rights and futures of women and girls in the occupied Palestinian territory and Israel.<sup>8</sup>
9. On 19 December 2023, the Working Group, together with other Special Procedures mechanisms, issued a press release emphasising the need for the international community to support civil society groups expressing international solidarity in pursuit of peace and social justice and not to conflate international solidarity with antisemitism or islamophobia.<sup>9</sup>
10. On 15 January 2024, the Working Group, together with other Special Procedures mechanisms, issued a press release welcoming the recent decision by Suriname's highest

<sup>1</sup> Israel/occupied Palestinian territory: UN experts deplore attacks on civilians, call for truce and urge international community to address root causes of violence | OHCHR.

<sup>2</sup> China must not forcibly repatriate North Korean escapees: UN experts | OHCHR.

<sup>3</sup> China: UN expert urges release of human rights defender Guo Feixiong | OHCHR.

<sup>4</sup> UN experts say Sri Lanka's counter-terrorism bill fails to heed their recommendations, status quo fundamentally unchanged | OHCHR.

<sup>5</sup> UN experts on enforced disappearances to visit African Union | OHCHR.

<sup>6</sup> Sudan: UN experts appalled by use of sexual violence as a tool of war | OHCHR.

<sup>7</sup> UN experts urge States to unite for peace and push for ceasefire in Gaza | OHCHR.

<sup>8</sup> Occupied Palestinian territory and Israel: UN experts call for permanent ceasefire to protect rights and futures of women and girls | OHCHR.

<sup>9</sup> Support civil society's international solidarity efforts for peace: UN experts | OHCHR.

court upholding the 20-year prison sentence of former President Desiré Delano Bouterse for the torture and extrajudicial execution of 15 political opponents in 1982.<sup>10</sup>

11. On 19 January 2024, the Working Group, together with other Special Procedures mechanisms, issued a press release expressing grave concern that the trial in the United Arab Emirates of 84 members of civil society on spurious terrorism charges could result in the death penalty or lengthy prison sentences for acts allegedly committed in 2010-2011.<sup>11</sup>

12. On 24 January 2024, the Working Group, together with other Special Procedures mechanisms, issued a press release hailing the judgment of the European Court of Human Rights holding that Greece had violated a Syrian refugee's right to life when its coastguards shot at a vessel carrying migrants and asylum seekers in 2014.<sup>12</sup>

13. On 31 January 2023, the Working Group with other Special Procedures mechanisms, issued a press release concerning the landmark ruling by the International Court of Justice, which they noted offers the first concrete hope to protect civilians in Gaza enduring apocalyptic humanitarian conditions, destruction, mass killings, wounding and irreparable trauma.<sup>13</sup>

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<sup>10</sup> Suriname: UN experts welcome landmark ruling against former President Desiré Bouterse, urge implementation | OHCHR.

<sup>11</sup> United Arab Emirates: UN experts alarmed by new charges brought against civil society in UAE87 trial | OHCHR.

<sup>12</sup> UN experts hail landmark ruling by European Court of Human Rights on shooting by Greek Coastguard | OHCHR.

<sup>13</sup> Gaza: ICJ ruling offers hope for protection of civilians enduring apocalyptic conditions, say UN experts | OHCHR.

## Annex IV

### Intersessional activities of the members

1. On 11 October 2023, Ms. Neelapajit participated in an Asia-Pacific Regional Dialogue on the important role of regional human rights mechanisms in complementing the international and national human rights systems in the Asia-Pacific Region.
2. On 16 October 2023, the Chair-Rapporteur of the Working Group, Ms. Aua Baldé addressed the UN General Assembly, Third Committee, presenting the annual report and the thematic study on new technologies and enforced disappearances.
3. On 21 October 2023, the Vice-Chair of the Working Group, Ms. Gabriella Citroni conducted a training session on international standards regarding enforced disappearances to over 150 prosecutors in Peru, requested by the Peruvian authorities. The event garnered the participation and support of the Committee on Enforced Disappearances, the International Committee of the Red Cross, and of the Office of the High Commissioner for Human Rights in Peru.
4. On 22 October 2023, Ms. Baldé and Ms. Delgadillo Pérez participated in a Panel on the Situation of Enforced Disappearances and Elections in Africa, organized by the Working Group on Death Penalty, Extrajudicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa, the Committee for the Prevention of Torture in Africa, during the 77th ordinary session of the African Commission on Human and Peoples' Rights (ACHPR).
5. On 25 October 2023, Ms. Baldé participated in a Side Event on the Addis Ababa roadmap and HR75, at the margins of the 77th ordinary session of the ACHPR.
6. On 27 October 2023, Ms. Baranowska participated in an event organized by the UN Special Rapporteur on Iran on the side-lines of his presentation at the UN General Assembly Third Committee in New York. The topic of the side event was "Seeking Accountability for the 1988 extrajudicial executions and enforced disappearances".
7. On 2 November 2023, Ms. Delgadillo Pérez participated online in a meeting with the Chilean organization Londres 38.
8. On 6 November 2023, Ms. Delgadillo Pérez participated online in a meeting with the Search Unit from Missing Persons from Colombia.
9. On 7 November 2023, Ms. Delgadillo Pérez participated in an online meeting with NGOs from Chile.
10. On 8 November 2023, Ms. Neelapajit participated in the launch of the report "In the dark", organized by the Karen Human Rights Group, an NGO working on Myanmar and based in Thailand.
11. On 11 November 2023, Ms. Baldé participated in a post-graduate seminar organized by Universidade Catolica Portuguesa (Porto), where she discussed the protection against enforced disappearances within the United Nations.
12. On 10 November 2023, Ms. Delgadillo Pérez participated in the Inter-University Week on Rule of Law and Access to Justice, co-organized by different universities from El Salvador, Guatemala and Honduras and the German Society for International Cooperation.
13. On 14 November 2023, Ms. Citroni held a courtesy meeting with the new Director of the National Search Commission of Mexico (*Comisión Nacional de Búsqueda de Personas*), to present the methods of work of the Working Group, applicable standards in cases of enforced disappearances and exchanged on the possibility of technical cooperation and assistance.
14. On 24 November 2023, Ms. Delgadillo Pérez addressed the Colombian Congress in a space organized by civil society for the International Day for the Elimination of Violence Against Women. She spoke about the challenges of mothers in the search for their loved ones, and the importance of passing the bill for the protection of the rights of searching

persons and women - Senate Bill No. 139/23 (Proyecto de Ley de Protección de los Derechos de las Mujeres Buscadoras).

15. On 24 November 2023, Ms. Baranowska organized a workshop “Lost in Care: Disappearance of Unaccompanied Migrant Minors from Care Facilities in Europe”, at the Hertie School in Berlin. Also Ms. Gabriella Citroni participated in the workshop.

16. On 27 November 2023, Ms. Neelapaijit participated in the seminar “Transnational Repression and its impacts on Thailand” where she presented standards and public policies for an effective investigation of enforced disappearances and the importance of ASEAN in this regard.

17. On 30 November 2023, Ms. Citroni participated in an event in the context of the University College of London Policy & Practice seminar series, where she talked about enforced disappearances, current and historical perspectives.

18. On 5 December 2023, Ms. Baldé participated in the commemoration of the UDHR75 organized by the Community of Portuguese Language Countries where she talked about enforced disappearances and encouraged its members to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

19. On 6 December 2023, Ms. Delgadillo Pérez participated online in a meeting with NGOs from Venezuela.

20. On 11 December 2023, Ms. Baranowska, together with Ms. Citroni, participated in the seminar “Missing Persons and Enforced Disappearances: International Institutional Responses”, organized by Università La Sapienza, in Rome, in the context of the Seminar Series “Dialoghi Romani di diritto internazionale”.

21. On 15 December 2023, Ms. Baranowska gave an online training on ‘Missing unaccompanied minors and legal obligations of states’ during the Missing Children Europe Academy organized by Missing Children Europe.

22. On 19 December 2023, Ms. Baldé participated in the workshop popularization of the African Commission on Human and Peoples’ Rights, Guidelines on the Protection of All Persons from Enforced Disappearances in Africa, organized by the ACHPR.

23. On 25 January 2024, Ms. Delgadillo Pérez participated online in a meeting with NGOs from Peru.

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