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## Human Rights Council Working Group on Enforced or Involuntary Disappearances

### Post-sessional document

#### Ninety-ninth session (11-15 March 2013)

## I. Introduction

1. Further to its comments in its last annual report, submitted to the Human Rights Council at its 22nd session (A/HRC/22/45 and Corr.1, para. 5) the Working Group on Enforced or Involuntary Disappearances has adopted the practice of producing post-sessional documents to allow the translation of reporting on its activities, including all relevant country-specific information on enforced disappearances around the world. It commenced this practice at its ninety-eighth session, when in addition two general comments adopted concerning children and enforced disappearances and women affected by enforced disappearances were also reproduced as post-sessional documents (A/HRC/WGEID/98/1 and A/HRC/WGEID/98/2 respectively).
2. As of the present session, post-sessional documents will reflect communications and cases examined by the Working Group during each session. The annual report of the Working Group will contain hyperlinks to the post-sessional documents adopted after each session in the reporting period.
3. The present document reflects communications and cases examined by the Working Group during its ninety-ninth session, held from 11 to 15 March 2013.

## II. Communications

4. Between the ninety-eighth and the ninety-ninth sessions, the Working Group transmitted 10 cases under its urgent action procedure to China, India, Kenya, Pakistan, the Syrian Arab Republic and Thailand.
5. During the ninety-ninth session, the Working Group decided to transmit 60 newly reported cases of enforced disappearance to 15 States. The Working Group also clarified three cases, in Pakistan, Sri Lanka and Switzerland. Of the three cases, two were clarified on the basis of information provided by Governments, and one on the basis of information provided by sources.
6. Between the ninety-eighth and the ninety-ninth sessions, the Working Group transmitted three communications under its prompt intervention procedure to Mexico and

Sri Lanka. All were sent as joint communications with other special procedures mandates. The Working Group also transmitted four urgent appeals concerning persons who had been arrested, detained, abducted or otherwise deprived of their liberty or who had been forcibly disappeared or were at risk of disappearance in Bangladesh, China, the Gambia and the Lao People's Democratic Republic. All communications were sent jointly with other special procedures mechanisms.

7. During the ninety-ninth session, the Working Group also adopted one general allegation concerning India.

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

#### **1. Algeria**

##### **Standard procedure**

8. The Working Group transmitted one case to the Government under its standard procedure, concerning Mr. **Fateh Merighed**, who was allegedly arrested on 26 November 1994, at a roadblock in Boudjouada city, Djimla, by members of the national police brigade of Djimla, accompanied by paramilitaries.

##### **Information from the Government**

9. On 5 February 2013, the Government transmitted an updated version of a communication which had been handed to the Working Group during its ninety-seventh session. This information was partially processed for inclusion in the present document. Information concerning 25 cases was reviewed and was not considered sufficient to lead to the clarification of the cases.

#### **2. Angola**

##### **Standard procedure**

10. The Working Group transmitted two cases to the Government under its standard procedure.

11. The first case concerned Mr. **Silva Alves Kamulingue**, who was allegedly abducted on 27 May 2012, by members of a pro-Government militia known as the "Kaenches", near a hotel on Avenida de Portugal, Luanda.

12. The second case concerned Mr. **Isaias Sebastiao Cassule**, who was allegedly abducted on 29 May 2012, also by members of the "Kaenches", opposite Mercado Angola-Cuba in the Cazenga neighbourhood, Luanda.

#### **3. Argentina**

##### **Information from the Government**

13. On 15 May 2012, the Government transmitted one communication which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). The communication contained general information from the Government on progress regarding human rights and enforced disappearances. The communication also concerned

10 outstanding cases. On the basis of the information provided, the Working Group decided to apply the six-month rule to one case. The information was not considered sufficient to clarify the remaining nine outstanding cases.

## 4. Bangladesh

### Standard procedure

14. The Working Group transmitted two cases to the Government under its standard procedure.

15. The first case concerned Mr. **K M Shamim Akhtar**, who was allegedly abducted on 29 September 2011, close to the Bot Tola Mosque on the Bijoy Nagar road from Purana Paltan Line, Dhaka 1000, by members of law enforcement agencies.

16. The second case concerned Mr. **Mohammad Imam Hassan**, also known as Badal, who was allegedly last seen on 16 March 2012, at the office of Rapid Action Battalion Two (RAB2), She-E-Bangla Nagar, Dhaka.

### Urgent appeals

17. The Working Group transmitted one communication, on 16 November 2012, under its urgent appeal procedure, jointly with one other special procedures mechanism. The communication concerned, inter alia, allegations that Mr. **Shukhoronjon Bali**, a defence witness in a trial, was abducted on 5 November 2012 at a security checkpoint within the premises of the Bangladesh International Crimes Tribunal by plain-clothed security personnel allegedly from the “Detective Branch” of the Police who reportedly claimed to have instructions to take Mr. Bali to their “head office” for interrogation.

### Information from sources

18. Sources provided information on one outstanding case.

## 5. Bosnia and Herzegovina

### Information from the Government

19. On 7 November 2012, the Government transmitted a communication in response to the general allegation sent on 4 May 2011 concerning the Government’s alleged failure to clarify the fate and whereabouts of victims of the Korićanske Stijene massacre. The Government reported that an on-the-spot investigation was conducted and criminal proceedings against a number of individuals are still pending before the Court of Bosnia and Herzegovina.

20. On 13 November 2012, the Government transmitted a communication in response to the general allegation sent on 15 May 2009 concerning the Government’s alleged involvement in a practice of renditions and secret detention and to the general allegation sent on 4 May 2011. In response to the general allegation sent on 15 May 2009, the Ministry of Justice of Bosnia and Herzegovina replied:

- “in February 2005, the then Chairman of the Council of Ministers asked the competent authorities and the U.S. to release the detained Bosnian-Herzegovinian citizens from Guantanamo base and return them to Bosnia and Herzegovina. The U.S. Department of State sent a negative response. ... Bosnia and Herzegovina received from the U.S. Department of State assurances that the U.S. Government treated the detainees fully in accordance

with the 1949 Geneva Convention, but the Department of State remained reserved on the issue of their releasing.

- Effective remedies for victims of enforced disappearances and their families are indirectly guaranteed in the Law on Protection of Witnesses under Threat and Vulnerable Witnesses. ... Witness protection measures imply psychological, social and professional specialized assistance to a witness. ... We emphasize that the National Strategy for War Crimes Prosecution also contains a section titled “Protection and support of victims and witnesses”.
- ... damages can be sought in a civil action and the state, entities and individuals may be sued. There is established jurisprudence awarding damages to the victims.”
- In this regard, the Directorate of Federation Police reports, “in the period between 2002 and 2003, the Federation Ministry of the Interior ... was not involved in a practice ... of renditions and secret detention of a number of residents of Bosnia and Herzegovina ... the Ministry of the Interior has no information about the measures adopted by the Government of the Federation in order to ensure that persons expelled to other States were not in danger of enforced disappearances.”

21. With regard to the general allegation sent on 4 May 2011, the Ministry of Justice of Bosnia and Herzegovina replied:

- “the war crime committed on the site of Koricanske Stijene is not within competence of the Ministry of Justice ... but it is under exclusive jurisdiction of judicial authorities, and the prosecutor’s offices are the only authorities responsible for detection and prosecution of perpetrators of all crimes, including war crimes ... Bosnia and Herzegovina has adopted a National War Crimes Prosecution Strategy ...
- In terms of response ... which refers to taking steps in order to assist family members of the killed to ascertain the whereabouts of the killed ... it is under jurisdiction of the Missing Persons Institute of Bosnia and Herzegovina ...”
- In this regard, the Federation Ministry of the Interior indicates, “the Directorate of Federation Police has information on disappearance of 179 persons who have been identified .... Following the orders from the Prosecutor’s Office ... in cooperation with the Missing Person Institute of Bosnia and Herzegovina ... the Directorate of Federation Police went to the site of Koricanske Stijene and made a map, photo documentation and video recording of the site. All of these documents were forwarded to the Prosecutor’s Office ”

22. In this respect, the Ministry of Human Rights and Refugees reports, “since 1996, on the site of Koricanske Stijene, 4 exhumations have been carried out and 135 victims have been found and preliminary, by using DNA methods, 115 missing people were identified of which 84 were finally identified later and handed over to their families for burial. ... on 1 April 2009, the Institute established the Regional Office of Bihac and Field Office in Sanski Most ... our investigators are in the field every day in order to collect information on potential mass graves and get in touch with witnesses. Unfortunately, the forensic experts who were involved in the process of exhumation, autopsy and identification of victims, found that a number of the victims were burned on the spot ... and that the remains were partially dislocated to a new secondary location that has not yet been discovered ... the Institute will put efforts to locate the secondary location, in order to find the missing victims and to complete mortal remains of those victims whose skeletal remains have not

been completed ...[and expects] to solve, assisted by appropriate authorities and people having witnessed to war crimes, the case of disappearance of persons at the site of Korićanske Stijene.”

23. On 24 December 2012, the Government transmitted a communication in response to the general allegation sent on 4 May 2011. The Government indicated that reports on the activities and actions taken by the State Investigation and Protection Agency have been submitted to the competent prosecutor of the Prosecutor’s Office of Bosnia and Herzegovina.

24. On 5 February 2013, the Government transmitted a communication in response to the general allegations sent on 15 May 2009 and 4 May 2011 indicating that the Ministry of Human Rights and Refugees has no information available to answer the questions raised by the Working Group.

### **Observations**

25. The Working Group would like to thank the Government of Bosnia and Herzegovina for its substantive responses to the general allegations transmitted on 15 May 2009 and 4 May 2011. With regard to the responses to the general allegation transmitted on 15 May 2009, concerning the Government’s alleged involvement in a practice of renditions and secret detention, the Working Group would like to encourage the Government of Bosnia to continue its efforts to request the return of its citizens and former citizens from the Guantanamo base and to provide consular access to its nationals in detention. The Working Group would also like to reiterate article 8 of the Declaration on the Protection of all Persons from Enforced Disappearance (the Declaration), according to which “No State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance”.

26. Concerning the responses to the general allegation dated 4 May 2011, regarding the Government’s alleged failure to clarify the fate and whereabouts of victims of the Korićanske Stijene massacre, the Working Group notes the efforts made by the Government of Bosnia and Herzegovina in identifying the missing persons, assisting family members of the victims to ascertain their fate and whereabouts, and providing reparations to families of victims. The Working Group would like to encourage the Government of Bosnia and Herzegovina to continue its efforts in this respect and strengthen its efforts to bring those responsible to justice. The Working Group would be grateful to be informed of the results of the pending criminal proceedings of those accused of committing the crime of enforced disappearance. In addition, the Working Group would like to recall article 19 of the Declaration, which states that “the victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependents shall also be entitled to compensation”.

## **6. Chile**

### **Information from the Government**

27. On 22 August 2012, the Government transmitted one communication which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). The communication concerned 18 outstanding cases. Based on the information provided, the Working Group decided to apply the six-month rule to five cases. The information was not considered sufficient to clarify the remaining 13 outstanding cases.

## 7. China

### Urgent actions

28. On 7 December 2012, the Working Group transmitted one communication, concerning two cases, to the Government under its urgent action procedure.

29. The first case concerned Mr. **Golog Jigme Gyatso Lotsa**, who was allegedly arrested on 22 September 2012, by Chinese security officers on his way back to the Labdrang Monastery from Lanzhou, capital of Gansu Province.

30. The second case concerned Mr. **Jinpa Gyatso**, who was allegedly arrested on 25 October 2012, in Chengdu City, Sichuan Province, by Chinese State Security Officers.

### Urgent appeals

31. The Working Group transmitted one urgent appeal, on 17 January 2013, to the Government, jointly with four other special procedures mechanisms. The urgent appeal concerned the alleged detention of Mr. **Zhu Chengzhi** at an undisclosed location following his alleged arrest on 8 June 2012.

### Information from the Government

32. On 12 February 2010, the Government transmitted a reply to an urgent appeal, sent jointly with four other special procedures mechanisms on 12 October 2009, concerning Ms. **Liang Liwan**. This communication was not translated in time for inclusion in previous reports.<sup>1</sup> In its reply, the Government of China indicated that the case involved no instances of arbitrary detention, enforced disappearance or torture.

33. On 18 November 2011, the Government transmitted a reply to a general allegation, sent on 21 September 2011, regarding proposed revisions to the Criminal Procedure Law. This communication was not translated in time for inclusion in previous reports.<sup>2</sup> In its reply, the Government of China stated that consultations on the draft amendments to the Code of Criminal Procedure to which the communication referred were in progress and that the competent departments of the Standing Committee of the National People's Congress were collating all the opinions received and reviewing the draft amendments. The Government of China also provided some clarifications in relation to the matters raised in the general allegation.

34. On 27 August 2012, the Government transmitted a reply<sup>3</sup> to an urgent appeal, sent jointly with four other special procedures mechanisms on 15 May 2012, regarding, inter alia, the alleged enforced disappearances of Messrs. **Chen Guangcun** and **Chen Hua**. In the communication, the Government reported, inter alia, that no law enforcement measures had been taken against Messrs. Chen Guangcun or Chen Hua.

35. On 28 September 2012, the Government transmitted a reply<sup>4</sup> to an urgent appeal, sent jointly with seven other special procedures mechanisms on 9 August 2012, regarding, inter alia, the alleged enforced disappearance of 37 individuals, among whom the names of **Lo Lo**, **Nyendak** and **Yama Tsering** were listed. In the communication, the Government

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<sup>1</sup> The full text of the reply is contained in Annex I.

<sup>2</sup> Ibid.

<sup>3</sup> The full text of the reply is available at:  
[https://spdb.ohchr.org/hrdb/22nd/China\\_27.08.12\\_\(4.2012\)\\_Trans.pdf](https://spdb.ohchr.org/hrdb/22nd/China_27.08.12_(4.2012)_Trans.pdf)

<sup>4</sup> The full text of the reply is available at:  
[https://spdb.ohchr.org/hrdb/22nd/China\\_28.09.12\\_\(8.2012\)\\_Trans.pdf](https://spdb.ohchr.org/hrdb/22nd/China_28.09.12_(8.2012)_Trans.pdf)

gave details of the arrest and subsequent release of Nyendak, and Yama Tsering, as well as providing information on the whereabouts of Lo Lo following his detention.

### **Observations**

36. The Working Group would like to thank the Government for the replies received. Concerning the reply to a general allegation transmitted on 21 September 2011 regarding proposed revisions to the Code of Criminal Procedure, the Working Group notes the substantive information provided in relation to the intent of the legislation, the scope, authorization procedure and conditions, and the supervisory function of the procuratorates. In relation to the provision of the draft amendment highlighted in the response of the Government whereby “when individuals are consigned to residence under surveillance in designated premises, the reason for the consignment and the premises concerned shall be communicated to the families of the individuals involved within 24 hours of the consignment taking place except when communication is not possible, or in the case of offences endangering national security or terrorism where communicating the information might hamper investigations”, the Working Group recalls article 7 (“no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances”) and article 10 (“accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned”) of the Declaration.

## **8. Colombia**

### **Information from the Government**

37. On 8 March 2012, the Government transmitted one communication which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). The communication concerned nine outstanding cases and was not considered sufficient to clarify the cases.

38. On 30 October 2012, the Government replied to a general allegation sent jointly with 10 other special procedures mechanisms on 2 October 2012. The general allegation concerned the proposed reform of the Political Constitution of Colombia with regard to military justice, which could seriously affect the rule of law and the fight against impunity in Colombia. A press release on the same matter was issued on 22 October 2012. In its response, the Government reported inter alia that it valued all inputs concerning the constitutional reform on legislation. It gave detailed information on the process which had led to the draft legislation. The Government also pointed out that the current text of the draft legislation did not allow for impunity and respected the rule of law in terms of both the process by which the reform was drafted and the content of the draft, commenting that the process behind the draft legislation reflected its intention to have a broad and transparent discussion involving the participation of all sectors of the population, and mentioning that various sessions had been held in which civil society, non-governmental organizations (NGOs), the judiciary, political parties, diplomatic bodies, the United Nations, and the public security forces, inter alia, were represented.

### **Observations**

39. The Working Group would like to thank the Government of Colombia for the detailed reply to the general allegation sent jointly with 10 other special procedures mechanisms on 2 October 2012. In particular, the Working Group notes the assurances that this reform respects the rule of law in terms of both its content and the process by which it

was drafted, and that it will not affect the fight against impunity in Colombia. The Working Group also notes that enforced disappearance is among the crimes which are excluded from the military jurisdiction, in accordance with article 16 of the Declaration. The Working Group wishes to emphasize that the reform shall not in any way affect the principle that all acts of enforced disappearances, irrespective of the perpetrator, should at all times fall under the competence of the ordinary criminal justice system. This includes the preliminary investigation phase, which is essential for the establishment of facts and clarification of responsibilities, in particular in cases of investigation of crimes that may be linked to enforced disappearances but do not necessarily qualify *prima facie* as such, including arbitrary detention and abuse of authority.

## **9. Democratic People's Republic of Korea**

### **Standard procedure**

40. The Working Group transmitted one case to the Government under its standard procedure concerning Mr. **Seong-hwan Lee**, who was allegedly arrested on 4 September 1950, at his home in Seoul, Republic of Korea, by a State Political Security Department Officer of the Democratic People's Republic of Korea.

### **Information from the Government**

41. On 21 January 2013, the Government transmitted information in relation to 15 outstanding cases. The information provided was not considered sufficient to lead to the clarification of the cases.

### **Press release**

42. On 27 February 2013, the Working Group, jointly with three other special procedures mechanisms, issued a press release concerning allegations of serious human rights violations, including enforced disappearances, in the context of an extensive labour camp system, also known as kwan-li-so, for political prisoners. This press release, which followed a general allegation transmitted on 3 October 2012, called, inter alia, for an international inquiry into human rights abuses in the Democratic People's Republic of Korea.

### **Observations**

43. The Working Group regrets that no reply has been received to the general allegation dated 3 October 2012 and reiterates the call upon the Government to fully cooperate with the inquiry mechanisms appointed by the Human Rights Council. The Working Group also encourages the Government to cooperate with the Working Group to help it to carry out its mandate effectively as set out in paragraph 14 of Human Rights Council resolution 21/4.

## **10. Egypt**

### **Standard procedure**

44. The Working Group transmitted nine cases to the Government under its standard procedure. The first case concerned Mr. **Mohamed Seddiq Tawfiq Mohamed**, who was allegedly arrested on 28 January 2011 by the State Security Investigation Services after leaving home to join the demonstration in Tahrir Square, Cairo.



45. The second case concerned Mr. **Mohamed Mahmoud Fahmy Mohamed Salem**, who was allegedly arrested on 28 January 2011, by the Egyptian Intelligence Agency after participating in the demonstration in Tahrir Square, Cairo.
46. The third case concerned Mr. **Haithan Mohamed Abd El-Saniia Moustafa**, who was allegedly arrested by the State Security Investigation Services on 28 August 2011.
47. The fourth case concerned Mr. **Mohamed Mohamed Hamed Bayoumi**, who was allegedly arrested by the State Security Investigation Services on his way to Tahrir Square, Cairo, after prayer at a mosque on 27 May 2011.
48. The fifth case concerned Mr. **Mahmoud Mohamed Mahmoud Aly Khadra**, who was allegedly arrested on 4 May 2012, in Al-Abasseyia Square, near the Ministry of Defence, by military forces.
49. The sixth case concerned Mr. **Mohamed Al-Shafei Ibrahim Abdelatey**, who was allegedly arrested on 30 January 2011, at the Military Checkpoint on the Fayoum road, Dahshour, south of Cairo, by military forces.
50. The seventh case concerned Mr. **Amr Mohamed Mohamed Darwish**, who was allegedly arrested on 8 April 2011, in Tahrir Square, Cairo, by military forces.
51. The eighth case concerned Mr. **Yaser Abdelfattah Abdelmohsen**, who was allegedly arrested on 19 November 2011, in downtown Cairo, by State Security Services.
52. The ninth case concerned Mr. **Zayan Seif El-Nasr Abd El-Fattah**, who was allegedly arrested on 28 January 2011, in Tahrir Square, Cairo, by State forces.

#### **Information from the Government**

53. On 1 December 2011, the Government transmitted a reply to an urgent appeal, sent jointly with one other special procedures mechanism on 28 January 2011, concerning Mr. **Muhamad Isma'il Muhammad Abduh**. This communication was not translated in time for inclusion in previous reports. In its response, the Government stated that Mr. Muhammad Abdul was arrested and taken into custody on 5 January 2011, and was subsequently released on 23 March 2011.

#### **Information from sources**

54. Sources provided information on two outstanding cases. In light of the new information received, and in accordance with the Working Group's methods of work, it was decided that the Government of Libya would receive copies of both of these cases.

#### **Observations**

55. The Working Group would like to thank the Government of Egypt for its reply to an urgent appeal transmitted on 28 January 2011.

## **11. The Gambia**

#### **Urgent appeals**

56. The Working Group transmitted one communication, on 18 December 2012, under its urgent appeal procedure, jointly with four other special procedures mechanisms, concerning the alleged arrest and continued detention of **Imam Baba Leigh**.

## 12. India

### **Urgent actions**

57. On 1 March 2013, the Working Group transmitted one case to the Government under its urgent action procedure. It concerned Ms. **Manjoni Das**, who was last seen on 10 February 2013, near Sibsagar bus station, Sibsagar District, Assam, allegedly on her way to meet the Superintendent of Police of Sibsagar.

### **General allegation**

#### *Summary of the general allegation*

58. The Working Group received information from credible sources concerning obstacles encountered in the implementation of the Declaration in India. This information was transmitted to the Government on 29 April 2013.

59. The allegations received by the Working Group concerned previous information transmitted to the Government by the Working Group on 11 February 2011 (see A/HRC/19/58/Rev.1, paras. 219-225). In this general allegation, it was noted that, according to the source, between April 2008 and November 2009, a total of 2,700 graves were examined by civil society organizations in three provinces, encompassing a total of 55 villages. It was documented that in Baramulla province 1,321 bodies were found; in Kupwara province 1,487 bodies were found; and in Bandipora province 135 bodies were found. In 177 cases, a grave contained more than one body, resulting in the discovery of more than 420 bodies. It was alleged that approximately 99 per cent of those buried were men.

60. In the present allegation, the source reported that, in response to those findings, the State Human Rights Commission (SHRC) took cognizance and conducted an investigation into the existence of unmarked graves and mass graves in North Kashmir. On 19 October 2011, the Division Bench of SHRC allegedly passed an order regarding the existence of unmarked and other graves in three districts of North Kashmir and recommended the creation of an independent body to investigate the issue. SHRC reportedly issued another order of 16 September 2011, based on information from civil society, in which it instructed official authorities in Jammu and Kashmir to produce a factual report on allegations of unmarked and other graves in Poonch and Rajouri Districts.

61. According to the source, on 13 August 2012, the Jammu and Kashmir government informed SHRC that the State did not intend to carry out DNA investigations of all the unmarked graves and mass graves. The source further alleges that existing national agencies competent in the field of DNA profiling have discredited themselves in the past. According to the information provided by the source, there are many instances in Jammu and Kashmir where in crucial cases DNA samples were not accurately examined by the forensic science laboratories. In some cases of exhumations, the families have allegedly been waiting for more than five to six years for the government to present the DNA reports in the courts. The source concludes that there is both a lack of willingness and capability at the national level.

## 13. Iran (Islamic Republic of)

### **Information from the Government**

62. On 19 November 2012, the Government transmitted a reply to an urgent appeal, sent jointly with seven other special procedures mechanisms on 19 October 2011, concerning

alleged arrest, detention and sentencing of human rights defenders, including the allegation that requests by Mr. **Kouhyar Goudarzi**'s lawyer to the Government for information regarding the whereabouts and condition of his client were denied. The Government stated that Mr. Goudarzi was charged with association and conspiracy to act against national security by disturbing public security and disseminating misinformation about the sacred system of the Islamic Republic of Iran. The court found Mr. Goudarzi guilty and sentenced him to five years' Taziri imprisonment in the provincial city of Zabol, minus time already served. The Court, through verdict number 465, dated 7 July 2012, rejected Mr. Goudarzi's appeal.

#### **Information from sources**

63. Sources provided information on one outstanding case.

#### **Observations**

64. The Working Group would like to thank the Government of Iran for its reply to an urgent appeal transmitted on 19 October 2011.

### **14. Japan**

#### **Information from the Government**

65. On 12 October 2012, the Government transmitted information to the Working Group concerning missing persons allegedly abducted by the authorities of the Democratic People's Republic of Korea, including information in relation to an outstanding case registered under the statistics of the Democratic People's Republic of Korea.

### **15. Jordan**

#### **Information from the Government**

66. On 18 January 2013, the Government transmitted a reply to an urgent appeal, sent jointly with one other special procedures mechanism on 17 October 2012, concerning, inter alia, allegations that the fate and whereabouts of Mr. **Ashraf Mohammad Yousef Abdulsalam** were unknown. The Government stated in its reply that "on 26 September 2012, the person mentioned was admitted to the detention and investigation centre of the General Intelligence Department on the basis of a judicial decision by the prosecutor-general of the State Security Court, and was released from there on 24 December 2012, by decision by the prosecutor-general of the State Security Court for lack of evidence against him."

#### **Observations**

67. The Working Group would like to thank the Government of Jordan for its reply to an urgent appeal transmitted on 17 October 2012.

### **16. Kenya**

#### **Urgent actions**

68. On 14 December 2012, the Working Group transmitted one case to the Government under its urgent action procedure, concerning Mr. **Badru Bakari Mramba**, who was allegedly arrested on 14 November 2012 by three men in civilian clothes who identified

themselves as police, at his kiosk opposite the Musa Mosque in the neighbourhood of Majengo Musa, Mombasa.

#### **Standard procedure**

69. The Working Group transmitted nine cases to the Government under its standard procedure.

70. The first case concerned Mr. **Robert Ngeywo Bucheche**, who was allegedly arrested on 16 March 2008 near his home by eight armed military officers in uniform, believed to be from the 20th Parachute Battalion (20 Para) of the Kenyan Army, while he was on his way home from honey harvesting.

71. The second case concerned Mr. **Robert Aramis Matayo**, who was allegedly arrested on 19 March 2008 by a group of approximately 60 armed military officers in uniform, believed to be from 20 Para of the Kenyan Army, while he was running for shelter towards Cheptais market when bombs were fired in Kabero village.

72. The third case concerned Mr. **Arnest Juma Chebwek**, who was allegedly arrested on 20 March 2008 at his home by approximately six armed military officers in uniform, believed to be from 20 Para of the Kenyan Army.

73. The fourth case concerned Mr. **Lawi Kiboi**, who was allegedly arrested in late April 2008 at his home by six armed military officers in uniform, believed to be from 20 Para of the Kenyan Army.

74. The fifth case concerned Mr. **Benard Boiyo Cheren**, who was allegedly arrested on 17 March 2008 near his home by a group of armed military officers in uniform, believed to be from 20 Para of the Kenyan Army, while he was running for shelter towards the forest when bombs were reportedly fired by the military in the village.

75. The sixth case concerned Mr. **Simon Psamgen Kipyego**, who was allegedly arrested on 18 March 2008 at his home by approximately 10 armed military officers in uniform, believed to be from 20 Para of the Kenyan Army.

76. The seventh case concerned Mr. **Barasa Bramwel Chemabus**, who was allegedly arrested on 5 April 2008 at his home by approximately 30 armed military officers in uniform, believed to be from 20 Para of the Kenyan Army.

77. The eighth case concerned Mr. **Bramuel Sumbata Ngeywo**, who was allegedly arrested on 18 April 2008 at his home by approximately 14 armed military officers in uniform, believed to be from 20 Para of the Kenyan Army.

78. The ninth case concerned Mr. **Geoffrey Kimtai Chemengu**, who was allegedly arrested on 9 May 2008 on a farm near his home by a group of armed military officers in uniform, believed to be from 20 Para of the Kenyan Army.

## **17. Lao People's Democratic Republic**

#### **Urgent appeals**

79. The Working Group transmitted one communication, on 20 December 2012, under its urgent appeal procedure, jointly with three other special procedures mechanisms, concerning, inter alia, allegations that Mr. **Sombath Somphone**, a human rights defender who had been working on issues of land grabbing and assisting victims to speak out about their experiences, may have been the victim of an enforced disappearance.

**Information from the Government**

80. On 3 January 2013, the Government transmitted a reply to an urgent appeal, sent jointly with three other special procedures mechanisms on 20 December 2012 (see. para. 79), concerning Mr. **Sombath Somphone**. In its reply, the Government of the Lao People's Democratic Republic indicated, on the basis of the preliminary assessment of the incident from the CCTV footage, that the authorities concerned viewed that it may be possible that Mr. Sombath had been kidnapped perhaps because of a personal conflict or a conflict in business or some other reasons. The Government also stated that the concerned authority was accelerating the investigations, collecting evidence in order to reach a conclusion on the incident.

81. On 1 February 2013, the Government transmitted information concerning one case. The information provided was not considered sufficient to lead to the clarification of the case.

**Observations**

82. The Working Group would like to thank the Government of the Lao People's Democratic Republic for its reply to an urgent appeal transmitted on 20 December 2012.

**18. Lithuania****Information from the Government**

83. On 5 September 2012, the Government transmitted a communication in response to the general allegation sent on 16 April 2012, which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). In its reply, the Government stated, inter alia, that "according to the findings of the Parliamentary investigation conducted by the Seimas (Parliament) Committee on National Security and Defense, the State Security Department of Lithuania had received a request from the partners to equip facilities in Lithuania suitable for holding detainees. However, during the investigation no proof was found that the examined facilities were used for retention or interrogation of detainees. The Prosecutor General's Office also carried out a [thorough] criminal investigation which came to conclusion that it is not possible to state the commission of any act having the signs of a crime or criminal offence. Therefore the pre-trial investigation was terminated."

**Observations**

84. The Working Group would like to thank the Government of Lithuania for the reply to the general allegation transmitted on 16 April 2012 in relation to credible reports of the involvement of Lithuania with secret detentions between 2001 and 2006. The Working Group takes note of the information provided by the Government that a thorough investigation was carried out concluding that it was not possible to state that crimes were committed in relation to the allegations and hence the pretrial investigation was terminated and would not reopen in the absence of new facts or circumstances. The Working Group would welcome updated information on any further investigations on these issues.

**19. Mexico****Standard procedure**

85. The Working Group transmitted nine newly reported cases to the Government.

86. The first eight cases concerned Messrs. **Alberto Vázquez Rodríguez, Esteban Urbina Cisneros, Héctor Rodríguez González, Jorge Valente Ibarra Moreno, Rodolfo Alemán Ramírez, Milton Alvarado Rojas, Alejandro Guadalupe Zamora Vaca, and Luis Felipe Patiño Urbina**, who were allegedly last seen on 28 April 2011 on the way from the municipality of Juárez to the municipality of Apodaca, Nuevo León. Messrs. **Vázquez Rodríguez and Urbina Cisneros** had reportedly been arrested by transit police officers in Juárez on the day of the alleged disappearance. The other individuals reportedly went to the Juárez police premises to collect the alleged detainees and all 11 individuals were on their way back to Apodaca but never arrived at their destination.

87. The ninth case concerned Mr. **Jorge Luis López Cantú**, who, on 26 October 2011, was allegedly taken to an unknown location by individuals believed to be acting in collaboration with the police.

#### **Prompt intervention letter**

88. On 26 November 2012, the Working Group transmitted a prompt intervention letter, jointly with two other special procedures mechanisms, concerning allegations of repeated acts of harassment and intimidation against members of the **Comité de Familiares de Detenidos Desaparecidos “Hasta Encontrarlos”** (CFDDHE – Committee of Family Members of the Detained and Disappeared “Until They Are Found”).

89. On 21 December 2012, the Working Group transmitted a prompt intervention letter concerning the alleged theft of information related to reported enforced disappearances from the home of a member of the **Guzmán Cruz** family in the Tarejero community, Michoacán state.

#### **Information from the Government**

90. On 6 November 2012, the Government transmitted a communication which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). The communication concerned a prompt intervention letter sent jointly with three other special procedures mechanisms, concerning allegations of attempted murder against Ms. **Norma Esther Andrade** on 3 February 2012. Ms. Andrade is the co-founder of Nuestras Hijas de Regreso a Casa (NHRC), an organization which deals with cases of enforced disappearance and abduction of women in Ciudad Juárez. The Government, inter alia, confirmed that Ms. Andrade had been attacked at her home by an unidentified person; indicated that there were some inaccuracies in the reported allegations; and gave details concerning protection measures put in place for Ms. Andrade.

91. On 7 November 2012 and 19 November 2012, the Government transmitted two communications which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). The communications concerned 10 outstanding cases and one outstanding case respectively and were not considered sufficient to clarify the cases.

92. On 14 January 2013, the Government transmitted a communication concerning a prompt intervention letter sent jointly with two other special procedures mechanisms on 26 November 2012 (see para. 88). The Government inter alia reported that the facts alleged in the prompt intervention letter were not accurate; gave details of a complaint filed by a member of CFDDHE and related action taken by the authorities; commented that other members of CFDDHE had filed no complaints regarding the alleged acts of harassment; and described measures taken to guarantee the rights of the individuals mentioned in the communication.

## Observations

93. The Working Group would like to thank the Government of Mexico for its replies to prompt intervention letters transmitted on 3 February and 26 November 2012. In this regard, the Working Group notes the information on the protection measures provided to the victims and encourages the authorities to continue the investigation processes started in relation to the acts of harassment and intimidation against members of organizations of relatives and other non-governmental organizations concerned with disappearances; and to strengthen other preventive measures.

## 20. Morocco

### Information from the Government

94. On 6 July 2012, the Government transmitted one communication which could not be processed in time for inclusion in the 2012 annual report (A/HRC/22/45 and Corr.1). This information was partially processed for inclusion in the present document. Information concerning 10 cases which had already been clarified was reviewed.

## 21. Myanmar

### Standard procedure

95. The Working Group transmitted one case to the Government under its standard procedure, concerning Ms. **Roi Ja Sumlut**, who was allegedly arrested on 28 October 2011, in a family cornfield near Hkai Bang village, Moemaik township, Kachin state, by three soldiers armed with guns from the Light Infantry Battalion (LIB) 321, based at Mu Bum Camp, Shwe Nyawng Pin village area. She was reportedly seen for the last time on 31 October 2011, at Mu Bum Camp.

## 22. Pakistan

### Urgent actions

96. On 28 January 2013, the Working Group transmitted one case to the Government under its urgent action procedure. It concerned Mr. **Sharif Ahmed Baloch**, who was allegedly arrested on 5 December 2012 at his home in Gehbun Kech by Pakistani security forces.

### Standard procedure

97. The Working Group transmitted 13 cases to the Government under its standard procedure.

98. The first case concerned Mr. **Mirza Muhammad Mehdi**, who was allegedly taken to an unknown location on 8 August 2011, by eight armed individuals, three of them in police uniform.

99. The second and the third cases concerned Messrs. **Umer Umer Ali** and **Zaib Muhammad Zaib**, who were allegedly arrested on 23 September 2008, at Chaprial military checkpoint near Matta, Swat Khyber Pakhtoon Khwah, by a group of men.

100. The fourth case concerned Mr. **Aman Ullan Mohammad Afial Mengal**, who was allegedly taken by force by approximately 30 to 40 individuals, some of them in Frontier Corps uniform, on 25 August 2012.

101. The fifth case concerned Mr. **Muhammad Bukhsh**, who was allegedly taken to an unknown place by Frontier Corps personnel on 20 June 2012.

102. The sixth case concerned Mr. **Rehman Abdul Rehman**, who was allegedly taken by Frontier Corps personnel at Zafar Abad check post on 9 June 2011.

103. The seventh case concerned Mr. **Abdul Malik**, who was allegedly taken by force from his home on 25 August 2011 by approximately 20 individuals wearing masks, some of them in Frontier Corps uniform.

104. The eighth case concerned Mr. **Rehman Haji Ameer Mohammad Mengal**, who was allegedly taken on 27 December 2011, by four individuals from the Military Intelligence and the Frontier Corps to an unknown place.

105. The ninth case concerned Mr. **Ali Hassan Khan Mohammad**, who was allegedly taken by force by approximately 30 to 40 Frontier Corps personnel in uniform on 4 November 2011.

106. The tenth case concerned Mr. **Khalid Bilal**, who was allegedly taken to an unknown place by personnel from the Frontier Corps and agents of the security services on 17 May 2011.

107. The eleventh case concerned Mr. **Ramran Mengal Haji Saleh Mohammad Mengal**, who was allegedly taken on 11 January 2011 by approximately five individuals, some of them in Frontier Corps uniform, to an unknown place while he was reportedly on his way to Hasib bank.

108. The twelfth case concerned Mr. **Sardar Ababaki**, who was allegedly taken on 27 December 2010 by approximately 100 individuals from the Frontier Corps and Anti-Terrorist Force to an unknown place.

109. The thirteenth case concerned Mr. **Murtaza Chandio**, who was allegedly arrested on 17 October 2011 by police and intelligence agents near Jamshoro Toll Plaza, Jamshoro district, Sindh province, Pakistan.

#### **Clarification**

110. Information was received from sources concerning one outstanding case. As a result, the case was clarified.

## **23. Peru**

#### **Information from the Government**

111. On 11 July 2011, the Government transmitted one communication concerning outstanding cases, which could not be processed in time for inclusion in previous reports. This information was partially processed for inclusion in the present document. Information concerning four cases was reviewed and was not considered sufficient to lead to their clarification. The communication also contained various documents from the Prosecutor's Office, the Judiciary and the Registro Nacional de Identidad y Estado Civil (RENIEC – National Identity and Civil Status Register).



## 24. Philippines

### Standard procedure

112. The Working Group transmitted one case to the Government under its standard procedure. It concerned Mr. **Daryl Fortuna**, who was allegedly arrested on 9 March 2010, with another individual, at the residence of a person associated with him in Sitio Matalvis, Barangay Inhobol, Masinloc, Zambales, by four unidentified men armed with pistols. On 12 March 2010, Mr. Fortuna and the other individual were reportedly seen in handcuffs in the custody of the 24th Infantry Battalion of the Philippine Army.

## 25. Russian Federation

### Information from the Government

113. On 14 May 2012, the Government transmitted a reply to a prompt intervention letter, sent jointly with four other special procedures mechanisms on 1 March 2012, concerning alleged police harassment of two human rights defenders, namely Messrs. **Anton Ryzhov** and **Igor Kalyapin**, both affiliated to the Interregional Committee against Torture and the Joint Mobile Group, a coalition of human rights defenders who travel to Chechnya on a rotating basis in order to investigate allegations of torture and enforced disappearances. In its response, the Government of the Russian Federation stated that the Nizhegorod Transport Investigating Agency carried out a procedural review concerning Mr. Ryzhov's statement against certain internal affairs officers, and it was decided not to institute criminal proceedings on the grounds of lack of evidence that the police officers had exceeded their official powers. The Government also noted that allegations of harassment by staff of the Russian law enforcement agencies against Messrs. Ryzhov and Kalyapin had not been substantiated.

### Observations

114. The Working Group would like to thank the Government of the Russian Federation for its reply to a prompt intervention letter transmitted on 1 March 2012. The Working Group would like to recall article 13 (3) of the Declaration which states that: "Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal". The Working Group would also like to recall Human Rights Council resolution 21/4, which urges States to take steps to provide adequate protection to human rights defenders acting against enforced disappearances against any intimidation, persecution, reprisals or ill-treatment to which they might be subjected.

## 26. Saudi Arabia

### Standard procedure

115. The Working Group transmitted one case to the Government under its standard procedure, concerning Mr. **Alaaeddin Al-Rashi**, who was allegedly last seen on 21 March 2011, in a public street at the bottom of the apartment block where he had been staying in Riyadh.

## 27. Sri Lanka

### Standard procedure

116. The Working Group transmitted six cases to the Government under its standard procedure.

117. The first case concerned Mr. **Retnam Retnam Cheran**, who was allegedly last seen on 11 December 1990, at Karaitivu Refugee Camp, Kalmunai. According to the information received, around the time of the alleged disappearance of Mr. Retnam Cheran, the Sri Lankan military reportedly arrested many individuals at the camp.

118. The second case concerned Mr. **Asokkumar Murugaiah**, who was allegedly arrested by an investigative officer of the Sri Lankan Navy on 1 October 2007 at Triconamalai Upvell checkpoint.

119. The third case concerned Mr. **Balakumar Mutthukumar**, a former member of the Liberation Tigers of Tamil Eelam (LTTE), who was allegedly last seen on 14 May 2009, in Vellamullivaikkal village, an area in Mullaitivu district, Northern province, at the time under the control of the Sri Lankan army, which was reportedly taking persons perceived to be affiliated to the LTTE into custody.

120. The fourth case concerned Mr. **Rojan Macvin Joseph Vaz**, previously forcibly recruited by the LTTE, who was allegedly last seen on 17 May 2009, in Omanthai, Vavuniya district, an area under the control of the Sri Lankan army, which was reportedly taking persons perceived to be affiliated to the LTTE into custody.

121. The fifth case concerned Mr. **Kumarathurai Lavakulan**, who was allegedly arrested on 18 May 2009, in Vattuvakal, Mullaithivu district, by members of the Sri Lankan army.

122. The sixth case concerned Mr. **Sivasuthan Krishnasami**, who was allegedly last seen in May 2009, in Mathalan, Mullaitivu district, Northern Province. According to the information received prior to his alleged disappearance, Mr. Krishnasami was reportedly taken to Pulmottai hospital, where the Government allegedly arrested various injured individuals perceived to have fought for the LTTE.

### Prompt intervention letter

123. On 10 December 2012, the Working Group transmitted a prompt intervention letter, jointly with three other special procedures mechanisms, concerning the alleged arrest of members of the **Asian Federation against Involuntary Disappearances**.

### Information from the Government

124. On 21 January 2013, the Government transmitted a communication containing, inter alia, information on the establishment of an Inter-Agency Working Committee with the participation of the relevant line Ministries/agencies under the aegis of the Ministry of Defence and Urban Development of Sri Lanka to clarify cases on alleged disappearances; and general information on cases, including cases which have reportedly not been formally reported to any law enforcement agency.

125. On 15 February 2013, the Government transmitted a communication concerning a prompt intervention letter sent jointly with three other special procedures mechanisms on 10 December 2012 (see para. 123). The Government reported, inter alia, that not all the information in the prompt intervention letter was accurate; and indicated that, with respect to the content of the communication, there was no allegation of prolonged detention or threat to their physical integrity or safety, or to their lives.

126. On 18 February 2013, the Government transmitted a communication regarding 105 outstanding cases. On the basis of the information provided, the Working Group decided to apply the six-month rule to three cases. The information provided was not considered sufficient to lead to the clarification of the remaining 102 cases.

#### **Information from sources**

127. Sources provided information on three outstanding cases.

#### **Clarification**

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

#### **Observations**

129. The Working Group would like to thank the Government of Sri Lanka for its reply dated 15 February 2013 to the communication sent on 10 December 2012. The Working Group would like to point out that the issue was brought to the attention of the Government as a prompt intervention letter concerning alleged cases of intimidation, persecution or reprisal against relatives of disappeared persons, witnesses to disappearances or their families, members of organizations of relatives and other non-governmental organizations, human rights defenders or individuals concerned with disappearances, in accordance with the methods of work of the Working Group.

## **28. Switzerland**

#### **Information from the Government**

130. On 1 March 2013, the Government transmitted a communication containing information concerning a case to which the six-month rule had been applied by the Working Group at its ninety-seventh session.

#### **Clarification**

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

## **29. Syrian Arab Republic**

#### **Urgent actions**

132. On 1 March 2013, the Working Group transmitted four cases to the Government under its urgent action procedure. These cases concerned Messrs. **Youssef al-Ammar Suhaib al-Ammar, Iqbal al-Ammar, and Bilal Koushan**, who were allegedly arrested on 24 November 2012 at an apartment in al-Zohour neighbourhood, Damascus, by a number of armed men believed to be members of Government security forces or Shabiha Government armed militia groups.

#### **Standard procedure**

133. The Working Group transmitted one case to the Government under its standard procedure, concerning Mr. **'Imad Walid Kharsa (or Kharseh)**, who was allegedly arrested by State security forces at a house in Janat al-Soarna on 24 August 2011.

#### **Information from the Government**

134. On 18 December 2012, the Government transmitted a communication in response to communications concerning the situation in the Syrian Arab Republic. In the communication, the Government reported on “victims of the Syrian Arab Army and law enforcement personnel as a result of attacks by armed terrorist groups”.

135. On 19 December 2012, the Government transmitted a communication regarding one outstanding case. The information provided was not considered sufficient to lead to the clarification of the case.

#### **Information from sources**

136. Sources provided information on two outstanding cases.

### **30. Tajikistan**

#### **Information from sources**

137. Sources provided information on one outstanding case.

### **31. Thailand**

#### **Urgent actions**

138. On 27 November 2012, the Working Group transmitted one case to the Government under its urgent action procedure concerning Mr. **Furakon Kama**, who was allegedly last seen on 15 September 2012, leaving his home to go to the city of Yala, and may have been arrested by members of Taskforce 41 Wan Paya.

#### **Standard procedure**

139. The Working Group transmitted three cases to the Government under its standard procedure.

140. The first two cases concerned Ms. **Sommai Ue-Bon-Shue** and her husband, Mr. **Wan Ue-Bon-Shue**, who were allegedly forcibly taken to an unknown location from their car in Kalasin city centre on 14 May 2005, by approximately three or four unidentified men suspected to be police.

141. The third case concerned Mr. **Abdullah Kutha**, who was allegedly last seen on 22 June 2012, leaving his place of work with a ranger from Taskforce 43, Tambon Pulopuyo Nongchik district.

#### **Information from sources**

142. Sources provided information on 28 outstanding cases.

## **32. Turkey**

### **Information from the Government**

143. On 20 February 2013, the Government transmitted one communication concerning outstanding cases, including information in Turkish. Information in English on five outstanding cases was reviewed by the Working Group. This information was not considered sufficient to clarify the cases. In addition, the Government was requested to retransmit the information submitted in Turkish in one of the six official United Nations languages.

## **33. United Kingdom of Great Britain and Northern Ireland**

### **Information from the Government**

144. On 16 January 2013, the Government of the United Kingdom of Great Britain and Northern Ireland submitted information in relation to an outstanding case registered under the statistics of Saudi Arabia.

## **34. State of Palestine**

### **Standard procedure**

145. The Working Group transmitted one case to the Government under its standard procedure, concerning Ms. **Hiyam El Saqa**, who was allegedly last seen on 6 April 2011, at Al-Shati Camp, Gaza city. It was later reported that she may have been detained by the Internal Security Apparatus or Hamas security forces.

## Annex

1. The reply from the Government of China, transmitted on 12 February 2010, contained the following information:

“Receipt is hereby acknowledged of joint communication No. UA G/SO 218/2 G/SO 217/1 G/SO 214(67-17) G/SO 214(107-9) G/SO 214(53-24) CHN 28/2009 from the Chairperson of the Working Group on Arbitrary Detention, the Chairperson of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The Chinese Government has made careful inquiries into the matter referred to in the communication and wishes to make the following reply:

Liang Liwan is a resident of the Nongkou neighbourhood in Jianqiao town, Jianggan district, Hangzhou city, Zhejiang Province. Her home address is No. 52, Unit 3, Nongkou village, Jianqiao town, Jianggan district, Hangzhou city. In March 2002, the Jianggan district people’s government granted building permission for a plot of land of 93 square metres. The authorized floor area of the building constructed on that land was 279 square metres; the actual floor area is more than 450 square metres, which represents an excess of 171 square metres.

In June 2008, stemming from a need for nation-building and urban development, the Chinese Government, in accordance with the Land Use Act and the relevant legal provisions, gave approval for collectively-owned rural land affected by the Hangzhou East Railway Station expansion project to be requisitioned; the affected houses were to be demolished and their occupants resettled in accordance with established procedures. A public announcement to this effect was made. Liang Liwan’s family home was situated within the area approved for requisition, and from the time the demolition and resettling project formally commenced on 1 April 2009 Liang Liwan persistently refused to permit a survey and appraisal of her home. From July 2008 onwards, she and others incessantly submitted petitions on issues related to the Hangzhou East Railway Station hub project, thereby hindering the demolition and resettlement project. On receiving a complaint about the demolition and resettlement dispute, the Hangzhou Bureau of Land and Resources made multilateral arrangements for mediation with Liang Liwan’s family. When the family rejected mediation, an administrative decision was issued in September 2009.

In early January 2010, Liang Liwan’s husband, contesting the administrative decision issued by the Hangzhou Bureau of Land and Resources ordering demolition of the house and resettlement of the family, asked the Zhejiang Provincial Department of Land Resources to reconsider it. Because the applicant had concurrently petitioned the Zhejiang province people’s government to investigate the constitutionality of the standard documents on compensation for demolition and resettlement in Hangzhou, the request has been forwarded to the relevant department of the Zhejiang provincial government and is currently being processed in accordance with procedure.

The Chinese Government will deal with the dispute over the demolition of Liang Liwan’s house and resettlement of her family in accordance with the law. It conscientiously protects the legitimate rights and interests of persons involved in demolition and resettlement proceedings. The case of Liang Liwan involves no instances of arbitrary detention, enforced disappearance or torture.

The Chinese Government respectfully requests that the foregoing be reproduced in its entirety in the relevant United Nations documents.”

2. The reply from the Government of China, transmitted on 18 November 2011, contained the following information:

“Receipt is acknowledged of communication No. G/SO 217/1 China dated 21 September from the Chairman of the Human Rights Council Working Group on Enforced or Involuntary Disappearances. The Chinese Government has made diligent inquiries into the matters that that communication raises, and consultations on the draft amendments to the Code of Criminal Procedure to which the communication refers are currently in progress. The competent departments of the Standing Committee of the National People’s Congress are collating all the opinions received and reviewing the draft amendments. After contacting the Legislative Department, the Chinese Government would like to make the following clarifications to the matters raised.

#### **A. Intent of the legislation**

There are no secret detentions or arbitrary disappearances in China. Residence under surveillance is one measure of restraint under the Code of Criminal Procedure that is applied to criminal suspects and accused persons who do not need to be jailed but are not supposed to leave their homes or particular premises. It is neither detention nor arrest, and may be applied in different ways.

The current Code of Criminal Procedure stipulates that a criminal suspect or accused person of no fixed abode may be assigned to residence under surveillance in designated premises. It makes no provision for notification of family members. The draft amendments to the Code specifically add a provision requiring that “when individuals are consigned to residence under surveillance in designated premises, the reason for the consignment and the premises concerned shall be communicated to the families of the individuals involved within 24 hours of the consignment taking place except when communication is not possible, or in the case of offences endangering national security or terrorism where communicating the information might hamper investigations”. The intent of the legislation is to emphasize the importance, when consigning someone to residence under surveillance, of timely notification of the family; in the two very serious cases of crimes endangering national security and of terrorism, where notifying the family might hamper investigations, the family need not be notified within 24 hours, but once notification will no longer hamper investigations the family must be notified at once. The amendments afford suspects and accused persons in criminal cases greater protection of their rights.

#### **B. Scope, authorization procedure and conditions**

In view of the fact that residence under surveillance places relatively light restrictions on personal liberty, the draft amendments specify that it is a substitute for custody, to be used in circumstances where custody might be warranted; in the case of individuals who are seriously ill, pregnant or breastfeeding, or where special circumstances require the imposition of residence under surveillance, the amendments tighten the criteria somewhat and narrow the scope for application.

To uphold civil rights and prevent abuse of the residence under surveillance measure, the draft amendments specify a strict approval procedure and conditions, together with measures of relief, such as language requiring consignment to residence to be approved by the next-higher level of judicial organs, and specifying that consignment may not be to

custodial premises or to special-purpose sites, while individuals so consigned may retain defence counsel; time spent in residence under surveillance in designated premises counts towards the duration of sentence. Hence the terms “secret detention” and “arbitrary disappearance” are misapplied to the draft amendments.

**C. Supervisory function of the procuratorates**

To ensure the lawful application of consignment to residence under surveillance, the draft amendments also provide that people’s procuratorates must check whether decisions to consign individuals to residence in designated premises, and the execution of those decisions, are consistent with the law. According to the Chinese Constitution, the procuratorial organs are State organs that oversee the law; as prescribed by law, they independently exercise supervisory authority and are not subject to interference by administrative bodies, social groups or individuals. It is not true that supervision is insufficiently dynamic.

The Chinese Government respectfully requests the incorporation in full of the above reply into the relevant United Nations reports.”

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