



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转交的来文、审议的案件、 提出的意见和开展的其他活动*

第 121 届会议** (2020 年 5 月 11 日至 15 日)

一. 来文

1. 在 2020 年 2 月 15 日至 5 月 15 日期间，工作组根据紧急行动程序向以下国家转交了 18 起案件：孟加拉国(1 起)、中国(5 起)、埃及(6 起)、巴基斯坦(3 起)、委内瑞拉玻利瓦尔共和国(2 起)和越南(1 起)。
2. 在 2020 年 5 月 11 日至 15 日举行的会议上，工作组决定向 14 个国家转交 168 起新报告的强迫失踪案件：孟加拉国(8 起)、布隆迪(35 起)、中国(6 起)、埃及(9 起)、印度(6 起)、伊拉克(3 起)、利比亚(3 起)、马来西亚(1 起)、尼日利亚(2 起)、巴基斯坦(15 起)、菲律宾(2 起)、俄罗斯联邦(11 起)、斯里兰卡(31 起)和阿拉伯叙利亚共和国(36 起)。
3. 工作组还决定转交 7 起新报告的等同于强迫失踪的侵权案件，这些案件据称是在利比亚(1 起)和乌克兰(6 起)由非国家行为体实施的。
4. 工作组还澄清了以下国家的 47 起案件：孟加拉国(1 起)、中国(13 起)、哥伦比亚(6 起)、埃及(3 起)、巴基斯坦(9 起)、菲律宾(12 起)、土库曼斯坦(1 起)、委内瑞拉玻利瓦尔共和国(1 起)和越南(1 起)。根据政府提供的资料，澄清了 19 起案件；根据来文方提供的资料，澄清了 27 起案件；根据政府和来文方提供的资料，澄清了 1 起案件。
5. 在 2020 年 2 月 15 日至 5 月 15 日期间，工作组单独或与其他特别程序机制联合转达了 31 份信函。信函由以下形式组成：8 项联合紧急呼吁，转达

* 本报告附件不译，原文照发。

** 鉴于冠状病毒病(COVID-19)大流行造成的旅行限制，工作组决定于 2020 年 5 月 11 日至 15 日通过视频会议远程开会，以部分履行第 121 届会议的活动方案。在这些会议期间，工作组继续审查收到的关于据称强迫失踪案件的资料，以及各国和案件来文方提交的资料。



给：阿尔巴尼亚(1)、孟加拉国(1)、中国(2)、埃及(1)、伊朗伊斯兰共和国(2)和越南(1)；18 封联合指控函，致巴林(1)、波斯尼亚和黑塞哥维那(1)、智利(1)、中国(1)、伊朗伊斯兰共和国(1)、伊拉克(1)、约旦(1)、墨西哥(1)、尼泊尔(1)、沙特阿拉伯(1)、斯里兰卡(1)、泰国(1)、土耳其(3)和美利坚合众国(1)，以及“其他行为体”(联合国教育、科学及文化组织世界遗产委员会和国际自然保护联盟世界遗产小组)(2)；4 封迅速干预函，分别发送给阿尔及利亚(1)、白俄罗斯(1)、墨西哥(1)和菲律宾(1)；以及 1 封致埃及的“其他信函”(1)。¹

6. 2020 年 3 月 3 日，主席兼报告员参加了阿根廷政府在布宜诺斯艾利斯举办的纪念工作组成立 40 周年活动(工作组于 1980 年 2 月 29 日成立)。该活动在前秘密拘留中心 ESMA 举行。活动由阿根廷人权事务秘书宣布开幕，代表失踪者家属的埃斯特拉·德卡洛托和罗莎·布鲁参加。主席兼报告员概述了工作组的历史，并反思了为何工作组的任务在今天和在 1980 年一样必要。他还展示了新的视听材料。²

7. 2020 年 3 月 6 日，工作组与歧视妇女和女童问题工作组在 3 月 8 日国际妇女节前夕发布了一份新闻稿，呼吁世界各地的男子参加性别平等运动，成为妇女人权维护者。³

8. 2010 年 3 月 16 日，工作组与其他特别程序机制联合发布新闻稿，敦促各国在应对冠状病毒病(COVID-19)疫情时避免过度采取安全措施，并提醒它们不应使用紧急权力来平息异议。⁴

9. 2020 年 3 月 23 日，工作组与其他特别程序机制联合发布新闻稿，对 2019 年 12 月被捕后不久被中国当局强行失踪的三名人权维护者的福祉表示严重关切。⁵

10. 2020 年 3 月 26 日，工作组与其他特别程序机制联合发布新闻稿，强调 COVID-19 危机不能仅靠公共卫生和紧急措施来解决，所有其他人权都必须得到考虑。⁶

11. 2010 年 3 月 27 日，工作组与其他特别程序机制一起，加入老年人享有所有人权问题独立专家的呼吁：展现团结一致，更好地保护老年人——COVID-19 流行病的主要受害者。⁷

12. 2010 年 4 月 9 日，工作组与其他特别程序机制一道，核可了在反恐的同时促进和保护人权与基本自由问题特别报告员发布的新闻稿，强调埃及全面反恐法

¹ 此类信函连同政府的答复(如果有)在转交有关国家 60 天后公布，可查阅 <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>。

² <https://vimeo.com/showcase/6609050>。

³ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25672&LangID=E。

⁴ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E。

⁵ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25735&LangID=E。

⁶ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25746&LangID=E。

⁷ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25748&LangID=E。

下更严格的法规正在进一步损害基本人权，并可能导致更多的任意拘留、强迫失踪和酷刑指控，以及对表达、思想、结社与和平集会自由的更广泛镇压。⁸

13. 2010 年 4 月 17 日，工作组与其他特别程序机制联合发布新闻稿，对 COVID-19 紧急措施范围内警察杀人和其他暴力行为的报道成倍增加表示严重关切。⁹

14. 4 月 28 日，工作组收到乌拉圭政府对其国别访问请求的积极答复。访问将于 2020 年底或 2021 年进行，具体取决于 COVID-19 疫情的发展情况。

15. 在 2020 年 5 月 14 日国际不再恐惧同性恋、跨性别与双性恋日到来之前，工作组加入了防止基于性取向和性别认同的暴力和歧视问题独立专家发表的声明，呼吁世界各国确保 COVID-19 紧急措施不会加剧不同性取向和性别认同的人面临的不平等或结构性障碍，或导致对他们的暴力和歧视增加。¹⁰

16. 在本届会议期间，工作组审查并通过了关于阿尔及利亚、伊拉克和沙特阿拉伯的三项一般性指控。

二. 其他活动

17. 在本届会议期间，工作组与就这一问题开展工作的非政府组织举行了虚拟会议。

18. 在本届会议期间，工作组还与日本政府代表举行了一次虚拟会议。

三. 工作组在届会期间审查的关于在各国发生的强迫或非自愿失踪的资料

阿尔巴尼亚

联合紧急呼吁

19. 3 月 20 日，工作组与其他特别程序机制一道，就一名土耳其国民据称即将被驱逐出境一事发出紧急呼吁，该人可能因据称或被认为与服务会/居伦运动有关联而在土耳其面临被拘留、起诉，并可能面临酷刑或其他残忍、不人道或有辱人格的待遇。

意见

20. 工作组对据报告在一名土耳其国民从阿尔巴尼亚被驱逐到土耳其之前发生的侵犯人权行为(包括强迫失踪)深表关切，据称这些行为违反了相关国家立法和不驱回原则。在讨论域外绑架问题(A/HRC/42/40，第 56 段；A/HRC/WGEID/119/1，第 112 和 113 段)时，工作组强调，不承认国家代理人剥夺自由和拒绝承认拘留，构成强迫失踪，即使是这种失踪时间不长。

21. 在这方面，工作组敦促阿尔巴尼亚政府停止并防止驱逐居住在阿尔巴尼亚的土耳其国民，调查与这些做法有关的侵犯人权行为指控，并在指控得到

⁸ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25787&LangID=E.

⁹ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25802&LangID=E.

¹⁰ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25884&LangID=E.

证实的情况下向据称受害者及其家属提供赔偿。工作组还呼吁阿尔巴尼亚当局对这些个人在根据国际人权法享有的权利方面可能面临的风险进行全面的个人评估。

阿尔及利亚

联合紧急呼吁

22. 2010年3月30日，工作组与其他特别程序机制一道，就据称暴力逮捕和拘留 Slimane Hamitouche (一名向强迫失踪受害者亲属提供支助的阿尔及利亚人权维护者)一事发出紧急呼吁。阿尔及利亚政府于2019年4月20日提交了答复。

一般性指控

23. 工作组从可靠来源收到的资料指称，在阿尔及利亚执行《保护所有人不遭受强迫失踪宣言》面临很多困难。一般性指控(见附件一)侧重于撒哈拉威人在廷杜夫各难民营的强迫失踪事件(据称是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)犯下的罪行)以及阿尔及利亚当局未能受害者及其家人提供伸张正义的机会。

巴林

联合指控函

24. 2020年3月2日，工作组与其他特别程序机制联合转交了关于对 Ali Ebrahim Mohamed Ameen Ebrahim AlArab、Husain Ali Redha Ebrahim Khamis Barbar、Isa Jaafar Isa Hasan AlAbd、Majeed Ahmed Habib Ahmed、Ali AbdulAziz Ali Husain Mohamed、Salah Saeed Saleh Ali Hasan AlHammar、Ali Hasan Ali Ashoor Ali 和 Sadiq Jaafar Isa Abdulla Hasan AlAbd 实施酷刑和其他虐待(包括强迫失踪)的一般性指控。

孟加拉国

紧急行动

25. 工作组根据紧急行动程序向政府转交了关于 Shafiqul Islam (又称 Shafiqul Islam Kajol)的案件，据称他于2020年3月10日，即一名政客根据《数字安全法》对他提出指控后的次日从达卡失踪。

根据来文方提供的资料作出的澄清

26. 2020年5月15日，工作组决定根据来文方提供的资料澄清 Shafiqul Islam Kajol 案。据报告，Kajol 先生再次出现，随后被逮捕。

标准程序

27. 工作组根据紧急行动程序，向政府转交了八起案件，事关：

(a) Tara Mia，据称于2012年8月14日在达卡的帕拉比被自称是执法机构成员的男子绑架；

(b) Monir Hossain, 最后一次听到他的消息是 2010 年 9 月 21 日在达卡的古里斯坦, 据信被快速行动营绑架;

(c) Mohammad Nur Hosan, 据称于 2011 年 6 月 20 日在 Cumilla 区 Chouddagram Upazila 被据信是执法机构成员的男子绑架;

(d) Mohon Mia, 据称于 2018 年 6 月 10 日在达卡的米尔普尔被自称来自警察侦探部门的人员绑架;

(e) Zakir Hossain, 据称于 2015 年 4 月 7 日在达卡的 Gulshan 被据信为执法官员的武装人员绑架;

(f) Iftekhar Ahmed Dina, 据称最后一次听到其消息是 2012 年 4 月 2 日在达卡的 Gulshan 地区, 据信已被执法部门绑架;

(g) Juned Ahmed, 据称最后一次听到其消息是 2012 年 4 月 2 日在达卡的 Gulshan 地区, 据信已被执法部门绑架;

(h) Ilias Ali 先生, 据称于 2012 年 4 月 18 日从达卡被据信为国家代理人的武装人员绑架。

联合紧急呼吁

28. 2020 年 4 月 3 日, 工作组与其他特别程序机制一道发出紧急呼吁, 事关: 记者 Shafiqul Islam Kajol 据称被强迫失踪; 当局对启动失踪调查有不当拖延; 以《数字安全法》下的罪行对 Kajol 展开调查。

意见

29. 工作组关切地指出, 几年来, 它一直在提出关于孟加拉国强迫失踪情况的类似报告。令人震惊的是, 它继续收到案件, 其中许多案件涉及与反对派政党有关联的个人, 而且, 这种做法在该国显然不受惩罚。它还对该国没有与工作组接触深表遗憾。在这方面, 工作组指出, 今年它没有收到对任何未决案件的答复, 自 1996 年工作组向政府转交第一起案件以来, 只有一起案件得到澄清。工作组希望尽快收到有关未决案件的资料。

30. 工作组还重申其对访问孟加拉国的兴趣, 自 2013 年以来转发的若干来文中都表达了这种兴趣。

白俄罗斯

政府提供的资料

31. 2020 年 3 月 23 日, 白俄罗斯政府转交了四起未决案件的资料, 但这些资料被认为不足以澄清案件。

迅速干预函

32. 2020 年 3 月 19 日, 工作组与其他特别程序机制联合转交了一封关于据称恐吓和骚扰一名在该国处理强迫失踪案件的律师的迅速干预函。

33. 2020 年 4 月 23 日, 白俄罗斯政府对联合指控函作出答复。

意见

34. 工作组回顾，终止或暂停对据称强迫失踪的刑事调查并不能免除所涉国家在适当尊重文化习俗的情况下查找和确定失踪人员或其遗体下落的义务，包括确认遗体身份并将其归还亲属。在这方面，工作组再次要求白俄罗斯政府与失踪者亲属充分协调，澄清失踪者的命运和下落。

35. 工作组极为关切的是，有指控称，代表失踪者亲属的律师和人权维护者遭到报复。在这方面，工作组请白俄罗斯政府确保所有参与调查强迫失踪案件的人，包括申诉人、律师和证人，按照《保护所有人不遭受强迫失踪宣言》第 13 条的规定，受到保护，免遭虐待、恐吓或报复。

波斯尼亚和黑塞哥维那

来文方提供的资料

36. 来文方提供了关于一起未决案件的资料，但这些资料被认为不足以澄清案件。

联合指控函

37. 2020 年 2 月 17 日，工作组与其他特别程序机制联合转交了一封指控函，事关据称对通过司法系统寻求赔偿的战时受害者施加诉讼时效(被称为 *zastara*)，并向因施加诉讼时效而被禁止索赔的受害者收取法庭费用。

巴西

对一般性指控的答复

38. 2020 年 1 月 29 日，巴西政府转交了对 2019 年 10 月 31 日转交的一般性指控(A/HRC/WGEID/119/1，第 23 段和附件一)的答复，该指控侧重于国家公共政策在解决 1964 年至 1985 年军事独裁期间在巴西发生的强迫失踪、特别是在寻找受害者方面的据称倒退问题。政府的完整答复载于本报告附件三。

布隆迪

标准程序

39. 工作组向该国政府转交了 35 起案件(见附件二)。

意见

40. 工作组注意到，本届会议期间审查的案件显示的趋势与第 120 届会议报告(A/HRC/WGEID/120/1，第 29-33 段)所述趋势类似。

智利

联合指控函

41. 2020 年 4 月 30 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及重新启动一项法案，规范出于人道主义原因取代监禁刑罚的做法(该法案更为人知的名称是《人道主义法》(第 12.345-073 号公报))，并对该法案将允许向被判犯有严重侵犯人权和危害人类罪的人提供福利表示关切。工作组回顾《保护所有人不遭受强迫失踪宣言》第 18 条，该条规定，对于犯有或指称犯有强迫失踪罪行的人，不应适用任何特别赦免法律或可能使他们免受任何刑事诉讼或制裁的类似措施。此外，在行使赦免权时，应考虑到强迫失踪行为的极端严重性。

中国

政府的紧急行动和资料

42. 工作组根据紧急行动程序，向政府转交了五起案件，事关：

(a) Ding Jiayi, 据称于 2019 年 12 月 26 日被拘留后，在不明地点的一个指定处所被监视居住；

(b) Zhang Zhongshun, 据称于 2019 年 12 月 26 日被拘留后，在不明地点的一个指定处所被监视居住；

(c) Dai Zhenya, 据称于 2019 年 12 月 26 日被拘留后，在不明地点的一个指定处所被监视居住；

(d) Xu Zhiyong, 据称于 2020 年 2 月被拘留后，在不明地点的一个指定处所被监视居住；

(e) Qiaochu Li, 据称于 2020 年 2 月 16 日在北京的一处住宅被捕。

43. 2020 年 4 月 2 日，中国政府转交了有关这些案件的资料，但这些资料被认为不足以澄清这些案件。

标准程序

44. 工作组根据标准程序向中国政府转交了 6 起案件，事关：

(a) Gulixian Abasi, 据称于 2018 年 9 月在乌鲁木齐被警察绑架；

(b) Patiguli Awuti, 据称于 2018 年 7 月初从新疆乌鲁木齐失踪，据信已被拘留；

(c) Zeminisa Maimaitiaisa, 据称于 2018 年在新疆和田市墨玉县失踪，据信已被拘留；

(d) Ruzewake Yilihamu, 据称于 2017 年底或 2018 年初在新疆和田市墨玉县失踪，据信已被拘留；

(e) Maimaitiming Reman, 据称于 2017 年或 2018 年失踪，据信已被拘留；

(f) Qurban Mamut, 据称在 2017 年 12 月至 2018 年 2 月期间从他在新疆乌鲁木齐的家中被带走，据信已被拘留。

澄清

45. 根据政府先前提供的资料，工作组决定澄清 12 起已在第 119 届会议置于六个月规则之下的案件(A/HRC/WGEID/119/1，第 33 段)，事关 Gulikamaier Alifu、Talati Gulinaer、Buayshem Kadir、Osman Tohti、Musa Kadir、Eminjan Kadir、Mardan Kadir、Memetjan Ayup、Roxangul Tahir 和三名儿童。据报告，这些人是自由的。

根据来文方资料作出的澄清

46. 根据来文方提供的资料，工作组决定澄清一起案件，事关 Quanzhang Wang，此人于拘留场所重新现身，并于此后被释放。

来文方提供的资料

47. 来文方提供了关于两起案件的资料，但这些资料被认为不足以澄清案件。

一个政府提供的资料

48. 瑞典政府提供了关于一起案件的资料，但这些资料被认为不足以澄清这一案件。

联合紧急呼吁和答复

49. 2020 年 3 月 9 日，工作组与其他特别程序机制一道，就三名人权维护者被任意逮捕和强迫失踪的指控发出紧急呼吁。Ding Jiayi、Zhang Zhongshun 和 Dai Zhenya 分别于 12 月 26 日在不同地点被捕，并在一个指定处所被监视居住。

50. 2020 年 4 月 2 日，中国政府转交了对紧急呼吁的答复。工作组感到遗憾的是，政府没有提供关于 Ding Jiayi、Zhang Zhongshun 和 Dai Zhenya 具体拘留地点的资料。

51. 2020 年 3 月 12 日，工作组与其他特别程序机制联合转交了一项紧急呼吁，涉及对 Shao Zhongguo 的任意拘留和虐待或酷刑风险的指控，以报复他作为人权维护者的活动以及他与另一名目前下落不明的人权维护者 Gao Zhisheng 的关系。

52. 2020 年 4 月 2 日，中国政府转交了对紧急呼吁的答复。工作组感到遗憾的是，政府没有提供资料，说明对 Gao Zhisheng 失踪事件进行的任何调查。

联合指控函

53. 2010 年 5 月 7 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及个人据称因在 COVID-19 疫情期间合法行使表达自由权而面临的惩罚，特别是对 Guo Quan 的任意拘留和对 Xu Zhiyong 的强迫失踪。

意见

54. 工作组感到关切的是，它继续收到新疆维吾尔自治区的据称失踪案件，涉及据报告被失踪多年的个人。它还对其中一些人因在国外有亲戚而成为目标的指控感到震惊。工作组还重申它对以下做法的关切：继续使用在指定处所监视居住方法；采用留置拘留制度；拒绝向亲属和法律代表提供被拘留者下落的信息。

55. 工作组强调,《保护所有人不遭受强迫失踪宣言》承认被关押在官方认可的拘留地点,并在拘留后立即交由司法当局处理的权利(第 10 条第 1 款)。《宣言》规定,拘留当局有义务将个人遭到拘留及其拘留地点的准确情况通知家属、律师或其他有合法理由关心这种情况的人(第 10 条第 2 款)。《宣言》还规定,每一拘留地点应保有被剥夺自由者的最新正式登记册(第 10 条第 3 款),并规定,不得援引任何特殊情况,不论是战争威胁、战争状态、内部政治不稳定还是任何其他公共紧急状况,作为造成被强迫失踪的理由(第 7 条)。

56. 工作组希望政府尽快对 2013 年 2 月 19 日提出的国别访问请求和随后发出的提醒函作出积极答复。

哥伦比亚

澄清

57. 根据政府先前提提供的资料,工作组决定澄清在第 119 届会议被置于六个月规则之下的 6 起案件(A/HRC/WGEID/119/1, 第 42 段),事关 Jesús Antonio Urrea Sanmiguel、Fredy Manuel Causil Noriega、Gildardo Salinas Piedrahita、José Aldemar Panesso Cartagena、Yuri Andrea Trujillo Munoz 和 Eder Orlando Panqueba。据报告,这些人已经死亡,其遗体已经确认身份。

朝鲜民主主义人民共和国

政府提供的资料

58. 2020 年 3 月 17 日,朝鲜民主主义人民共和国政府转交了关于 44 起案件的资料,但这些资料被认为不足以澄清这些案件。

对联合指控函的答复

59. 2020 年 2 月 24 日,政府转交了对 2020 年 2 月 11 日发出的联合指控函的答复,该信函涉及 1969 年大韩航空公司 YS-11 航班被劫持后,包括 Jeong Gyeong-Suk、Lee Dong-Ki, Jang Ki-Yeong 和 Choi Jeong-Woong 在内的 11 人据称继续失踪的问题。

意见

60. 工作组再次对政府缺乏合作表示严重关切,包括它继续收到对转交案件的相同答复。工作组强调,进行调查十分重要,以澄清失踪者的命运或下落,并向工作组提供关于所作努力和调查结果的准确信息。

埃及

紧急行动

61. 工作组根据紧急行动程序,向政府转交了 6 起案件,事关:

(a) Abd Al-Hakim Al-Gamal, 埃及公民, 1996 年 7 月 29 日出生, 据称于 2020 年 1 月 6 日下午 4 时左右在位于 Abou Qeer 街的工程学院附近被身着便衣的国家安全人员绑架;

(b) Abdulrahman Mohammed Yassin Ali, 埃及公民, 1985 年 11 月 6 日出生, 据称于 2020 年 2 月 18 日在“十月三日警察局”拘留期间失踪;

(c) Naji Mohammad Naji Mohammad Salim, 埃及公民, 1975 年 2 月 5 日出生, 据称于 2020 年 3 月 31 日被身着便衣的国家安全人员绑架;

(d) Badr-Eddine Abu Hita, 埃及公民, 1975 年出生, 据称于 2020 年 3 月 12 日凌晨 2 时在家中被绑架;

(e) Mohamaden Gouda, 埃及公民, 1956 年 3 月 17 日出生, 据称于 2020 年 2 月 27 日在家中被一些身穿制服和便衣的警察、军队和国家安全人员绑架;

(f) Abdel Halim El Sayed El Sayed, 埃及公民, 1984 年 1 月 1 日出生, 据称于 2020 年 2 月 3 日被国家安全部队从家中绑架。

标准程序

62. 工作组根据标准程序向政府转交了 9 起案件, 事关:

(a) Mahmoud Hussein, 埃及公民, 1996 年 5 月 20 日出生, 据称于 2018 年 8 月 11 日在家中被身着制服的警察和穿便衣的其他人员逮捕;

(b) Hadi Refaat Abdulwahed Mostafa, 埃及公民, 1997 年 4 月 27 日出生, 据称于 2019 年 1 月 27 日被当地警察和穿便衣的国家安全人员逮捕;

(c) Omar Hatem Gamal Mohamed Mostafa, 埃及公民, 1994 年 3 月 24 日出生, 据称于 2018 年 12 月 20 日在离开他工作的 Zahrat al-Bustan 咖啡馆时被身穿制服和便衣的警察逮捕;

(d) Mohammed Atiya, 埃及公民, 1997 年 1 月 1 日出生, 据称于 2018 年 2 月 17 日晚上 9 时被在开罗的 Ramsis 火车站被一些穿便衣的国家安全人员绑架;

(e) Abo-Bakr El-Senhody, 埃及公民, 1999 年 4 月 12 日出生, 据称于 2017 年 12 月 14 日被捕, 当时他正乘车途经埃及南部的阿斯旺前往沙拉丁;

(f) Samir Abou Halawa, 埃及公民, 1986 年 10 月 1 日出生, 据称于 2018 年 6 月 27 日在其居住地附近被穿便衣的国家安全人员逮捕;

(g) Abdallah al-Hadidi, 埃及公民, 1997 年 6 月 28 日出生, 据称于 2018 年 3 月 6 日在国家安全部队突袭他工作的五金店时被捕;

(h) Ashraf Zahran, 埃及公民, 1962 年 12 月 3 日出生, 据称于 2020 年 1 月 23 日在家中被身着制服的警察和穿便衣的国家安全人员绑架;

(i) Mohamed Ahmed Hassan Ahmed, 埃及公民, 1986 年 2 月 17 日出生, 据称于 2019 年 5 月 19 日在其工作地点附近被国家安全人员绑架。

根据来文方提供的资料作出的澄清

63. 根据来文方提供的资料, 工作组决定澄清三起案件, 事关: Islam El-Sayed Mahfouz Salem Khalil, 已从拘留场所获释; Mohamed Mahmoud Ahmed Al-Yamani Mohammed, 被拘留中; Omar Hatem Sayed Ibrahim, 被正式拘留。

适用六个月规则

64. 2020 年 3 月 5 日，政府提供了资料，在此基础上，工作组决定对以下五起案件适用六个月规则：Ahmed Mohamed Elsayed Hussein、Abdulrahman Ali Mahmoud Ali Fatih al-Bab、Kamal Nabil Mohamed Abdullah Fayyad、Ahmed Mosbah Abu Sati Tantawy 和 Mussaab Mohamed Ismail Elserwi。五名男子均已被证实被拘留。

政府提供的资料

65. 2020 年 3 月 5 日，埃及政府转交了关于两起未决案件的资料，但这些资料被认为不足以澄清这些案件。

来文方提供的资料

66. 来文方于 2020 年 4 月 9 日提供了关于一起案件的资料，但这些资料被认为不足以澄清这起案件。

“其他”联合“信函”

67. 2020 年 2 月 28 日，工作组与其他特别程序机制联合转交了议会立法委员会于 2020 年 2 月 10 日批准的关于《恐怖主义实体法》(2015 年第 8 号法)和《反恐怖主义法》(2015 年第 94 号法)拟议修正案的一封“其他信函”。这两项法律加强了对与恐怖有关犯罪的处罚，扩大了资助恐怖主义的定义，并对那些被判犯有资助恐怖团体和行为罪行的人判处死刑。

联合紧急呼吁

68. 3 月 31 日，工作组与其他特别程序机制联合转交了一项紧急呼吁，涉及对记者 Mohamed al-Yammani 和 Mohamed Badr 继续任意拘留(当局尚未通报对他们的指控)以及对人权维护者 Patrick George Zaki 的拘留、酷刑和持续司法骚扰。

意见

69. 工作组仍然感到关切的是，有报告称，在释放被拘留者过程中以及在法院作出此类释放决定之后发生强迫失踪；对于以前在第一次被捕后曾遭受强迫失踪但被法院无罪释放的人实施强迫失踪。

70. 工作组还继续收到关于警察拒绝公开强迫失踪案件正式记录的资料，警方称，申诉人所描述的方法很像是国家安全行动所采用的方法。

71. 工作组继续关切地注意到，有系统的报告称，在没有出示任何逮捕令或解释逮捕原因的情况下进行了逮捕，这些逮捕被描述为国家安全部队犯下的绑架行为。

72. 在这方面，工作组回顾《保护所有人不遭受强迫失踪宣言》第 2 条和第 7 条，其中规定，任何国家不得实行、允许或容忍强迫失踪行为，不得援引任何情况，无论是战争威胁、战争状态、国内政治不稳定或任何其他公共紧急状态，为强迫失踪辩护。《宣言》还规定，有义务在每一拘留地点保有对被拘留者的最新正式登记册(第 10.3 条)。

印度

标准程序

73. 工作组在标准程序下向该国政府转交了 6 起案件，事关：

(a) Showkat Ahmad Paul，据称于 2003 年 6 月 23 日从斯利那加、查谟和克什米尔被印度军队成员绑架；

(b) Bilal Ahmad Sheikh 失踪时是一名儿童，据称于 1997 年 3 月 30 日在 Tengpora Bypass Chowk 被印度军队第二十掷弹营成员绑架；

(c) Fayaz Ahmad Beigh，据称于 1997 年 9 月 6 日从斯利那加、查谟和克什米尔被特遣部队(特别行动小组)人员绑架；

(d) Ghulam Mohammad Aangar，据称于 1992 年 6 月 10 日从斯利那加、查谟和克什米尔被边境安全部队第三十营的成员绑架；

(e) Naseer Ahmad Wani，据称于 2019 年 11 月 29 日被印度军队成员从拉杰波拉、Shopian 区、查谟和克什米尔逮捕；

(f) Mohammad Lone Akbar，生于 1965 年 6 月 10 日，据称于 1999 年 2 月 3 日从阿贾斯、班迪波拉、查谟和克什米尔被印度军队 Rashtriya 步枪营第 14 营的成员绑架。

来文方提供的资料

74. 来文方提供了关于两起案件的资料，但这些资料被认为不足以澄清案件。

意见

75. 工作组感到关切的是，它继续收到据称在查谟和克什米尔发生的与强迫失踪有关的案件，包括 1990 年代和 2000 年代发生的案件。它注意到，在许多情况下，尽管诉诸了法律手段，但自失踪以来已经过去了几十年，在确定个人命运和下落方面却进展甚微。工作组还关切地注意到，它最近收到了一起 2019 年的案件。

76. 工作组希望重申，各国应采取有效的立法、行政、司法或其他措施，防止和制止强迫失踪行为，不得援引任何情况为强迫失踪辩护，只要强迫失踪受害者的命运尚未澄清，就应对案件进行调查，只要犯罪人继续隐瞒失踪者的命运和下落，这些事实仍未澄清，就应将构成强迫失踪的行为视为持续犯罪(《宣言》第 3 条、第 7 条、第 13 条和第 17 条)。

77. 工作组深感遗憾的是，它几年来没有收到政府对其中任何案件的答复。它希望很快收到资料。工作组希望政府尽快对 2010 年 8 月 16 日提出的国别访问请求和随后发出的提醒函作出积极答复。

伊朗伊斯兰共和国

来文方提供的资料

78. 来文方提供了关于一起案件的资料，但这些资料被认为不足以澄清案件。

联合指控函

79. 2020年2月19日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及所收到的关于自2020年1月11日以来在伊朗伊斯兰共和国各地举行的抗议活动的资料，以及据称执法部门做出的不成比例的反应，包括过度使用武力，导致受伤、任意逮捕和拘留、强迫失踪和对抗议者的虐待。

联合紧急呼吁

80. 2020年4月22日，工作组与其他特别程序机制联合转交了一项紧急呼吁，内容涉及所收到的关于逮捕、拘留和判处 Amir Hossein Moradi、Saeed Tamjidi 和 Mohammad Rajabi 死刑的资料，他们被控在2019年11月德黑兰抗议期间纵火和损坏财产；此外还对正当程序、遵守公正审判保障和据称在强迫失踪期间使用酷刑逼供表示严重关切。

81. 2020年5月15日，工作组与其他特别程序机制联合转交了一项紧急呼吁，涉及阿瓦士阿拉伯少数民族成员 Hossein Silawi、Ali Khasraji 和 Naser Khafajian 以及库尔德少数民族成员 Hedayat Abdollahpour 据称被强迫失踪，并担心他们可能面临酷刑或秘密处决的风险。

意见

82. 工作组回顾《宣言》第10条，该条规定，任何被剥夺自由的人均应被关押在官方认可的拘留地点，并遵照国家法律，在拘留后应立即送交司法当局。第10条第2款要求各国迅速提供关于拘留此类人员及其一个或多个拘留地点的准确信息，包括移交情况，除非有关人员已表示相反的意愿。此外，第10条第3款要求各国对每个拘留地点所有被剥夺自由的人保持一份最新正式登记册。

对联合指控函的答复

83. 2020年2月18日，政府转交了对2019年12月18日发出的联合指控函的答复，该函涉及2019年11月15日至19日在伊朗伊斯兰共和国发生的抗议活动及其后果，包括据称国家当局任意杀害、伤害和逮捕参加抗议的个人，以及被拘留者无法获得法律代理。

伊拉克

标准程序

84. 工作组根据标准程序向政府转交了3起案件，事关：

(a) Qassim Mohammed Brism al-Obaidi，伊拉克公民，1971年2月16日出生，据称于2006年12月27日在 Baqubah 北部的 Al-Georgia 检查站停留后被强迫失踪，该检查站当时在伊拉克联邦警察的控制之下；

(b) Bassem Mohammed Brism al-Obaidi，伊拉克公民，1969年1月25日出生，据称于2006年1月25日在家中被绑架，伊拉克和美国武装部队成员采取联合行动突击搜查了他的住宅；

(c) Faez Suleiman Jassem Ghadib al-Nuaimi，伊拉克公民，1982年出生，据称于2004年11月9日在法鲁贾中枪受伤后被美军逮捕。

联合指控函

85. 2020 年 5 月 5 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及据报告自 2014 年 6 月 12 日以来在提克里特失踪的 432 名斯皮切尔营地学员的案件。据报告，这些学员是被政府军绑架的，而他们的 1,000 多名受训同伴在离开斯皮克营地后被伊拉克和黎凡特伊斯兰国抓获。

一般性指控

86. 工作组收到可靠来源的资料，指称在伊拉克执行《保护所有人不遭受强迫失踪宣言》方面遇到困难。该一般性指控(见附件一)侧重于强迫失踪罪的普遍有罪不罚现象及其在伊拉克的持续发生，这突出表明没有采取有效措施追究对强迫失踪负有责任的官员的责任。

约旦

联合指控函

87. 2010 年 3 月 31 日，工作组与其他特别程序机制联合转交了关于任意逮捕和拘留人权维护者 Abdulrahman Shdeifat 的指控函。

利比亚

紧急程序

88. 工作组宣布，从 2019 年 9 月起，它将开始记录非国家行为体实施的相当于强迫失踪的侵权行为(A/HRC/42/40，第 94 段)。因此，在远程会议期间，工作组审议了一起相当于强迫失踪的案件，据称是在利比亚国民军控制的利比亚领土上实施的。¹¹ 工作组根据其紧急程序将此案转交利比亚政府和利比亚国民军。该案涉及 Mourad Eddaikra，阿尔及利亚公民，据称他于 2020 年 3 月 26 日从哈利法·哈夫塔尔手下民兵管理的索尔曼拘留所失踪。

标准程序

89. 工作组根据标准程序向政府转交了 3 起案件，事关：

(a) Abdallah Muftah Ali Muftah，利比亚士兵，据称于 2013 年 1 月 19 日在的黎波里附近 Khalet al-Forjan 总参谋部内的会计部时被强迫失踪；

(b) Ahmad Abdallah Abd al-Salam Salama，利比亚公民，据称于 2015 年 1 月 28 日在家中被据信属于米苏拉塔 Shrekhan 民兵的男子绑架，据说该民兵隶属于米苏拉塔军事委员会和利比亚国防部；

(c) Mohamed Khulad Eblal，利比亚公民，据称于 2015 年 3 月 20 日在位于米提加机场的办公室被据信属于名为“al-Bouni 营”的民兵组织的三名蒙面男子绑架。

¹¹ 工作组强调，转交利比亚国民军的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。

马来西亚

标准程序

90. 工作组根据其标准程序向该国政府转交了一起案件，涉及 Rudangta Sitepu，他最后一次被人见到是 2016 年 11 月出现在雪兰莪州的 Petaline Java。据信她可能是因其基督教牧师的职业而失踪的。

91. 根据其工作方法，工作组还向印度尼西亚政府转交了案件卷宗的副本。

马尔代夫

来文方提供的资料

92. 来文方提供了关于一起案件的资料，但这些资料被认为不足以澄清案件。

墨西哥

迅速干预函

93. 2020 年 3 月 20 日，工作组与其他特别程序机制联合转交了一封迅速干预函，内容涉及国家机构在对一起强迫失踪案的调查中一再妨碍司法公正，以及据称对受害者亲属实施了威胁和恐吓行为。

联合指控函

94. 2020 年 5 月 12 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及在恰帕斯州和奇瓦瓦州拘留一群男子期间犯下的据称侵犯人权行为，包括据称其中一名受害者被短期强迫失踪。

尼泊尔

联合指控函

95. 2020 年 3 月 16 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及据报告没有就修订《失踪人员调查、真相与和解委员会法》2014 年(尼泊尔 2071 年)与受害者进行有效协商。

尼日利亚

标准程序

96. 工作组根据标准程序向政府转交了 2 起案件，事关：

(a) Chinonso Paul Nnadozie，据称于 2017 年 9 月 7 日在尼日利亚东部阿比亚州乌穆阿希亚北方委员会地区的 Ubakala 陆军检查站被阿比亚州奥哈菲亚的尼日利亚军队第 14 旅士兵拘留；

(b) Daniel Kalu Agwu Chukwudi，据称于 2016 年 5 月 30 日在阿南布拉州 Nkpor 路口被尼日利亚军队绑架。

巴基斯坦

紧急行动

97. 工作组根据紧急行动程序，向政府转交了三起案件，事关：

(a) Imran Khan Kaleri Baloch，据称于 2020 年 2 月 14 日在信德省 Naushahro Feroze 区 Kandiaro 学位学院的足球场上被警察和巴基斯坦游骑兵成员绑架；

(b) Daniyal Waheed，据称于 2019 年 11 月 14 日从其位于拉合尔的家中被巴基斯坦游骑兵特工绑架；

(c) Abdul Aziz Chang，据称于 2020 年 1 月 31 日在信德省位于 Jamshoro 的家门外被一名派出所警官绑架。

标准程序

98. 工作组向该国政府转交了 15 起案件，事关：

(a) Amal Khan，据称于 2009 年 8 月 7 日在白沙瓦的 Kohat 路被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(b) Wali Rehman，据称于 2009 年 8 月从他在斯瓦特区位于 Koza Bandi 的住所被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(c) Khan Mada Smir，据称于 2019 年 12 月 21 日从 Lakki Marwat 区的一个警察局被便衣男子绑架，疑是国家特勤局成员；

(d) Muhammad Idris Khattak，据称于 2019 年 11 月 13 日在伊斯兰堡——白沙瓦高速公路斯瓦比出口附近被便衣男子绑架，疑是军事机构成员；

(e) Muhammad Akram，据称于 2018 年 6 月 19 日从国家银行位于 Gojra 的主要分行被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(f) Muhammad Jamil，据称于 2015 年 5 月 3 日在穆尔坦的一个车间被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(g) Umer Kursheed Khan，据称于 2019 年 1 月 18 日从商业市场卫星镇 Rawalpindi 被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(h) Muhammad Hamza Ali，据称于 2018 年 6 月 20 日被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(i) Hafiz Muhammad Umer Farooq，据称于 2013 年 3 月 12 日从拉合尔穆斯林镇被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(j) Muhamad Tahir，据称于 2011 年 4 月 3 日在卡拉奇的 Pathan Colony 集市被一个秘密机构的成员绑架，这些成员可能来自军事情报机构、三军情报局或中央情报局；

(k) Mano, 据称于 2009 年 11 月 28 日从位于 Bara Bandai 的一所房子被一个秘密机构的成员绑架, 这些成员可能来自军事情报机构、三军情报局或中央情报局;

(l) Shair Ullah, 据称于 2016 年 8 月 4 日从其位于拉瓦尔品第银行路的商店被一个秘密机构的成员绑架, 这些成员可能来自军事情报机构、三军情报局或中央情报局;

(m) Muhammad Zahid, 据称于 2017 年 7 月 10 日从家中被一个秘密机构的成员绑架, 这些成员可能来自军事情报机构、三军情报局或中央情报局;

(n) Muhammad Shahzad, 据称于 2017 年 7 月 10 日从他在 Khanpure 区的家中被一个秘密机构的成员绑架, 这些成员可能来自军事情报机构、三军情报局或中央情报局;

(o) Israel Israel, 据称于 2017 年 10 月 1 日在信德省卡拉奇马沙尔殖民地被身着便衣的特勤局人员逮捕, 他们开车将他送往不明地点。

根据来文方提供的资料作出的澄清

99. 根据来文方提供的资料, 工作组决定澄清涉及 Imran Wali Muhammad、Muhammad Nawaz Atta、Rafeeq Baloch、Sher Jan、Ganj Bakhsh、Jeand Baloch、Najeem Ahmed、Muhammad Haneef 和 Ahmed Aqeel 的 9 起案件。这些男子据报告已经获释。

来文方提供的资料

100. 来文方提供了关于一起未决案件的最新资料, 但这些资料被视为不足以澄清该案件。

菲律宾

标准程序

101. 工作组向该国政府转交了 2 起案件, 事关:

(a) Nestor Dela Cerna, 据称于 2018 年 3 月 5 日在瓦伦苏埃拉市被蒙面武装人员绑架, 其中一人身穿警服;

(b) Reynaldo Jr. Brillante, 据称于 2018 年 10 月 9 日被身份不明的警察从奎松市绑架。

根据来文方提供的资料作出的澄清

102. 根据来文方提供的资料, 工作组决定澄清 12 起案件。

适用六个月规则

103. 根据政府提供的资料, 工作组决定适用六个月规则以澄清 15 起案件。

政府提供的资料

104. 政府转交了有关 185 起未决案件的资料，但这些资料被视为不足以澄清这些案件。

迅速干预函

105. 2020 年 4 月 15 日，工作组与其他特别程序机制联合发出了一项紧急呼吁，涉及据称杀害人权维护者 Ryan Hubilla 和 Nelly Bagasala，以及卡拉帕坦组织、加布里埃拉组织和菲律宾乡村传教士组织(这些组织致力于强迫失踪和法外处决等问题)提出的针对其他人权维护者的据称威胁、任意拘留和法律案件，其中涉及 Elisa Tita Lubi、Cristina Palabay、Reylan Vergara、Roneo Clamor、Kiri Dalena、Edita Burgos、Wilfredo Ruazol、Jose Mari Callueng、Elenita Belardo、Emma Cupin、Gertrudes Libang、Joan May Salvador、Jennefer Aguhob、Alexander Philip Abinguna、Mira Dalla Legion、Frenchie Mae Cumpio、Marissa Cabalalio 和 Mariel Albez Domequil 等人。

意见

106. 工作组感谢政府为提供诸多未决案件的最新情况所作的努力。工作组将努力在今后届会上尽快处理收到的其余答复。

107. 工作组希望政府尽快对 2008 年 4 月 3 日提出的国别访问请求和随后发出的提醒函作出积极答复。

大韩民国

对联合指控函的答复

108. 2020 年 2 月 28 日，该国政府转交了对 2020 年 1 月 28 日发出的联合指控函的答复，该指控函涉及据报告于 2019 年 11 月 2 日被抓获的两名朝鲜民主主义人民共和国公民被驱逐到朝鲜。

俄罗斯联邦

标准程序

109. 工作组根据标准程序向政府转交了 10 起案件，事关：

(a) Gyeong-Chul Sin，当时 24 岁，最后一次听到其消息是在 1950 年 6 月，在朝鲜战争即将爆发之前，来自位于今天俄罗斯联邦的南萨哈林的一封信件；

(b) In-seon Lee，当时 32 岁，最后一次听到其消息是在 1950 年 6 月，在朝鲜战争即将爆发之前，来自位于今天俄罗斯联邦的南库页岛的一封信件；

(c) Seong-Su Oh，当时 34 岁，最后一次听到其消息是在 1950 年 6 月，在朝鲜战争即将爆发之前，来自位于今天俄罗斯联邦的南库页岛的一封信；

(d) Yeon-Bong Chung，当时 37 岁，最后一次听到其消息是在 1950 年 6 月，在朝鲜战争即将爆发之前，来自位于今天俄罗斯联邦的南库页岛的一封信；

(e) Dong-Gae Park, 来自大韩民国西大邱, 当时 44 岁, 最后一次听到其消息是在 1950 年 6 月, 在朝鲜战争即将爆发之前, 来自位于今天俄罗斯联邦的南库页岛的一封信;

(f) Bong-Gyu Chung, 当时 35 岁, 最后一次听到其消息是在 1950 年 6 月, 在朝鲜战争即将爆发之前, 来自位于今天俄罗斯联邦的南库页岛的一封信;

(g) Seok-Gyu Jin, 当时 25 岁, 最后一次听到其消息是在 1950 年 6 月, 在朝鲜战争即将爆发之前, 来自位于今天俄罗斯联邦的南库页岛的一封信;

(h) Mun-sik Choi, 当时 34 岁, 最后一次听到其消息是在 1950 年 6 月, 在朝鲜战争即将爆发之前, 来自位于今天俄罗斯联邦的南库页岛的一封信;

(i) Tae-Gyu Chung, 当时 36 岁, 最后一次听到其消息是在 1950 年 6 月, 在朝鲜战争即将爆发之前, 来自位于今天俄罗斯联邦的南库页岛的一封信;

(j) Shin-Hun Chang, 当时 31 岁, 最后一次听到其消息是在 1950 年 6 月, 在朝鲜战争即将爆发之前, 来自位于今天俄罗斯联邦的南库页岛的一封信;

(k) Yurii Karpov, 据称于 2014 年 8 月 29 日在顿涅茨克的姆诺哥波利/斯塔罗别舍沃地区被自称“顿涅茨克人民共和国”的武装团体绑架。还有指控称, 他目前被拘留在俄罗斯联邦顿河畔罗斯托夫。

来文方提供的资料

110. 来文方提供了关于一起未决案件的资料, 但这些资料被视为不足以澄清该案。

沙特阿拉伯

联合指控函

111. 2020 年 4 月 6 日, 工作组与其他特别程序机制联合转交了一封指控函, 内容涉及沙特公主 Basmah bint Saud bin Abdulaziz Al Saud 及其女儿 Suhoud al-Sharif 据称自 2019 年 3 月 1 日以来在沙特阿拉伯被任意逮捕和拘留。

一般性指控

112. 工作组收到可靠来源的资料, 指称在沙特阿拉伯执行《保护所有人不遭受强迫失踪宣言》方面遇到困难。该一般性指控(见附件一)侧重于防止强迫失踪的法律保护不足; 无司法独立; 导致发生强迫失踪的调查规则和做法; 以及有罪不罚文化。

斯里兰卡

标准程序

113. 工作组向该国政府转交了 31 起案件(见附件二)。

来文方提供的资料

114. 来文方提供了关于一起未决案件的最新资料，但这些资料被视为不足以澄清该案件。

联合指控函

115. 2020 年 5 月 11 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及该国解决强迫失踪问题的政策和政府最近就这一问题发表的声明。

意见

116. 工作组重申，除其他外，应确保严格尊重失踪人员办公室的独立性，并向该办公室提供足够的资源，以有效履行其任务。工作组还重申，应继续调查所有案件，直至失踪者的下落得到澄清，而且，即使在死亡的情况下，斯里兰卡也须根据《保护所有人免遭强迫失踪国际公约》第十二条和第二十四条，采取一切适当措施找到、尊重和归还遗体。工作组还强调了确保该办公室收集的证据得到保护和保密的重要性。

117. 此外，工作组强调，包括证人、失踪者亲属及其辩护律师在内的个人应受到保护，使其免受任何形式的恐吓或虐待，政府应根据《保护所有人免遭强迫失踪国际公约》第十二条和第二十四条，保障组建和自由参与那些与试图确定强迫失踪情况和失踪者命运有关的组织和协会以及向强迫失踪受害者提供援助的权利。

118. 工作组欢迎斯里兰卡保证将继续以建设性的方式与包括特别程序在内的联合国常规进程和机制进行接触，并希望收到关于政府在本国处理强迫失踪问题和履行根据《保护所有人免遭强迫失踪国际公约》和《保护所有人不遭受强迫失踪宣言》所承担的义务方面准备采取的政策的具体资料。工作组重申，它随时准备协助斯里兰卡执行工作组在其访问斯里兰卡的报告(A/HRC/33/51/Add.2)和后续行动报告(A/HRC/42/40/Add.1)中提出的建议。

阿拉伯叙利亚共和国

标准程序

119. 工作组向该国政府转交了 36 起案件(见附件二)。

意见

120. 工作组对其不断收到的关于儿童与父母一起在阿拉伯叙利亚共和国被强行失踪的报告深感关切。根据《儿童权利公约》及其《任择议定书》和《消除对妇女一切形式歧视公约》，所有儿童都应享有特别保护。必须总是将儿童首先作为受害者对待，而其最大利益也必须同样是首要考虑因素。在这方面，工作组谨回顾阿拉伯叙利亚共和国政府在《保护所有人不遭受强迫失踪宣言》第 20 条下的义务，该条要求各国防止和制止对父母遭受强迫失踪的儿童和母亲在被强迫失踪期间生下的儿童实施绑架。它还要求各国努力寻找和查明这类儿童，并将他们送回其出生的家庭。

121. 工作组请阿拉伯叙利亚共和国当局立即停止和防止强迫失踪；搜寻受害者并确定其下落；对这些侵权行为进行透明、独立和有效的调查，并特别重视据报告的在押死亡情况；追究犯罪人的责任；并向失踪者家属提供赔偿。

泰国

联合指控函

122. 2020 年 4 月 20 日，工作组与其他特别程序机制联合转交了一封信函，内容涉及泰国的国家法律框架和将土著人民排除在森林管理之外的做法，以及据称对人权维护者的杀害和强迫失踪以及强行驱逐克伦族成员不受惩罚的问题。

土耳其

政府提供的资料

123. 2020 年 4 月 10 日，土耳其政府提供了关于 17 起未决案件的资料，但这些资料被视为不足以澄清这些案件。

适用六个月规则

124. 2020 年 4 月 10 日，该国政府提供了资料，在此基础上，工作组决定对一起案件适用六个月规则。

来文方提供的资料

125. 来文方提供了关于一起未决案件的资料，但这些资料被视为不足以澄清该案。

联合指控函

126. 2020 年 3 月 26 日，工作组与其他特别程序机制联合转交了一封指控函，内容涉及一名巴勒斯坦国民据报告在拘留期间死亡，该人还被推定为被强迫失踪。

127. 2020 年 5 月 22 日，土耳其政府对联合指控函作出答复。

128. 2020 年 4 月 22 日，工作组与其他特别程序机制联合转交了一封联合指控函，涉及两名伊朗国民据称遭到身体虐待并从土耳其被驱逐到伊朗伊斯兰共和国。

129. 2020 年 5 月 5 日，工作组与其他特别程序机制联合转交了一封联合指控函，内容涉及似乎是国家支持的域外绑架和将土耳其国民从多个国家强行遣返土耳其等系统性做法。据指称，至少有 100 名涉嫌参与服务会/居伦运动的人遭到任意逮捕和拘留、强迫失踪和酷刑；据报告，这是土耳其政府与阿富汗、阿尔巴尼亚、阿塞拜疆、柬埔寨、加蓬、哈萨克斯坦、黎巴嫩和巴基斯坦等国以及科索沃当局协调组织或唆使的秘密行动的一部分。¹²

130. 2020 年 6 月 11 日，土耳其政府对联合指控函作出了答复。

¹² 对科索沃的提及，应在安全理事会第 1244 (1999)号决议背景下加以理解。

意见

131. 工作组感到遗憾的是，土耳其政府继续无视关于土耳其国民从第三国被强迫返回土耳其的情况下发生的侵犯人权行为的严重指控。同样，工作组感到关切的是，对这些侵权行为显然缺乏问责，这可能会使更多土耳其国民面临被强迫失踪的风险，无论是在被驱逐出境前的第三国，还是在前往土耳其的过境途中。

132. 在这方面，工作组敦促土耳其政府毫不拖延地对这些指控进行独立、彻底和公正的调查，以向据称受害者及其家属提供有效补救的权利。在呼吁土耳其立即停止和防止这些做法时，工作组回顾《保护所有人不遭受强迫失踪宣言》第二条和第七条，其中规定，任何国家不得实施、允许或容忍强迫失踪，不得援引任何情况——无论是战争威胁、战争状态、国内政治不稳定还是任何其他公共紧急状态——为强迫失踪辩护。

土库曼斯坦

澄清

133. 根据政府和来文方先前提供的资料，工作组决定澄清一起关于 Gutgeldy Annaniyazov 的案件，此人据报告被拘留。

乌克兰

标准程序

134. 2019 年 9 月，工作组宣布，它将开始记录非国家行为体实施的相当于强迫失踪的侵权行为(A/HRC/42/40，第 94 段)。因此，在本届会议期间，工作组审议了六起相当于强迫失踪的案件，这些案件据称是在自称的“顿涅茨克人民共和国”控制的领土上犯下的。¹³ 工作组根据标准程序向乌克兰政府和自称的“顿涅茨克人民共和国”转交了这些案件，事关：

(a) Vladimir Svirskii，据称于 2014 年 8 月 24 日在顿涅茨克地区 Amvrosievskiy 区的 Kuteinikovo 被与自称“顿涅茨克人民共和国”有关联的武装团体绑架；

(b) Andrey Slabous，据称于 2014 年 8 月 29 日在顿涅茨克地区的 Mnogopolye 村区被与自称“顿涅茨克人民共和国”有关联的武装团体绑架；

(c) Oleg Nerevenko，据称于 2014 年 8 月 29 日在顿涅茨克地区的 Ilovaisk 战役期间被与自称“顿涅茨克人民共和国”有关联的武装团体绑架；

(d) Oleg Kurochka，据称于 2014 年 8 月 29 日在顿涅茨克地区的 Starobeshevo 区被与自称“顿涅茨克人民共和国”有关联的武装团体绑架；

(e) Oleksandr Plekhanov，据称于 2015 年 7 月 1 日在顿涅茨克地区的 Kuibyshevskiy 区被与自称“顿涅茨克人民共和国”有关联的武装团体绑架；

(f) Oleg Shevandin，据称于 2015 年 5 月 1 日在顿涅茨克地区 Debaltsevo 的一个检查站被与自称“顿涅茨克人民共和国”有关联的武装团体绑架。

¹³ 工作组强调，转交给自称“顿涅茨克人民共和国”的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达任何意见。

来自一个非国家行为体的资料

135. 2020 年 4 月 16 日和 27 日，自称“顿涅茨克人民共和国”的代表提供了关于三起未决案件的资料，但这些资料被视为不足以澄清这些案件。

来文方提供的资料

136. 来文方提供了关于一起未决案件的资料，但这些资料被视为不足以澄清该案。

美利坚合众国

联合指控函

137. 2020 年 4 月 15 日，工作组与其他特别程序机制联合转交了一封指控函，事关继续拘留之前曾被中央情报局关在关塔那摩湾的强迫失踪受害者 Ammar al-Baluchi。

委内瑞拉(玻利瓦尔共和国)

紧急行动

138. 工作组根据紧急行动程序，向委内瑞拉玻利瓦尔共和国政府转交了两起案件，事关：

(a) Tomeu Vadell Recalde，据称于 2020 年 2 月 5 日从加拉加斯 El Paraíso 的一栋住宅楼失踪，当时他被软禁在那里，由玻利瓦尔国家情报局羁押；

(b) Ruben Darío Fernández Figuera，据称于 2020 年 3 月 11 日在祖利亚州瓜吉拉市 Manuel Piar 步兵团第 131 营失踪。

来文方提供的资料

139. 来文方提供了关于一起未决案件的最新资料，但这些资料被视为不足以澄清该案件。

澄清

140. 根据政府此前提供的资料，工作组决定澄清在第 119 届会议被置于六个月规则之下的 1 起案件(A/HRC/WGEID/119/1，第 125 段)，事关 Ígbert José Marín Chaparro。据报告 Marín Chaparro 被拘留。

越南

紧急行动

141. 工作组根据其紧急行动程序向政府转交了一起案件，涉及 Thi Ha Truong，据报告他于 2020 年 3 月 26 日从老挝人民民主共和国越境前往越南后失踪。

来文方和政府提供的资料

142. 2020 年 5 月 15 日，工作组决定根据来文方提供的资料澄清 Thi Ha Truong 的案件。据报告，她在一个隔离设施中重新出现。政府也于 2020 年 5 月 26 日对此案作出了答复。

联合紧急呼吁和答复

143. 2020 年 3 月 31 日，工作组与其他特别程序机制联合发出一项紧急呼吁，涉及 Truong Thi Ha 从老挝人民民主共和国越境前往越南时据称被任意逮捕和可能被强迫失踪。政府于 2020 年 5 月 26 日提交了答复。

Annex I

[English and French only]

General allegations

Algeria

1. Le Groupe de travail sur les disparitions forcées ou involontaires a reçu, de la part de sources crédibles, des informations relatives à des obstacles rencontrés dans l'application des dispositions de la Déclaration sur la protection de toutes les personnes contre les disparitions forcées en Algérie.
2. Selon les sources, de graves violations de droits humains ont été commises dans les camps de réfugié.e.s Sahraoui.e.s près de la ville de Tindouf en Algérie, par les forces du Front Polisario et ce, de manière systématique. Ces violations auraient pris plusieurs formes : enlèvements, disparitions forcées ou involontaires, exécutions extrajudiciaires et torture.
3. Selon ces mêmes sources, lors du conflit au Sahara occidental, le Front Polisario aurait organisé le déplacement massif et souvent forcé de centaines de Sahraoui.e.s, incluant des femmes et des enfants, de différentes parties du territoire du Sahara occidental, du nord de la Mauritanie, du Mali et du Niger dans ces camps. Il a été rapporté que le gouvernement algérien a cédé ses responsabilités au Front Polisario pour gérer la vie quotidienne à l'intérieur des camps et en avoir le contrôle sur la gestion et l'organisation. Un nombre important de personnes auraient été victimes de disparitions forcées ou involontaires dans ces camps de réfugié.e.s Sahraoui.e.s.
4. La disparition forcée dans les camps de Tindouf, qui regroupent notamment les camps Smara, Dakhla, Aousserd, Laayoune, Boujdour et Rabouni, aurait été une pratique systématique contre tout.e réfugié.e Sahraoui.e qui exprimerait des opinions différentes ou opposées à celles propagées par le Front Polisario. Il a été allégué que les victimes auraient été enlevées de leurs tentes, enfermées dans des centres secrets, exécutés et enterrés anonymement dans des tombes clandestines individuelles.
5. En effet, il a été rapporté que les lieux de détention des réfugié.e.s au sein des camps et sous le contrôle du Front Polisario sont tenus secrets. Selon les informations communiquées au Groupe de travail, plusieurs témoignages de survivant.e.s concordent notamment sur la localisation de la prison d'Errachid, prison non-officielle, qui a été dénoncée comme étant un lieu de nombreuses pratiques de torture entraînant souvent la mort des victimes. Il a ainsi été rapporté 130 cas de disparitions forcées au sein de cette prison.
6. De plus, d'autres centres secrets de détention ont été signalés par les sources, tels que les prisons Dheibiya, Hamdi Abba Cheikh, Said Berhi, Elghazouani, Mohamed Sayed, Adem Rih, Martyre Haddad, Dakhla, "Centre 5", Al Hilal, et la prison dite du "12 Octobre" dans la périphérie de Rabouni. Il a également été rapporté l'existence de prisons pour femmes, dont l'une serait localisée entre les camps Aousserd et Smara, et l'autre à côté de l'hôpital de Rabouni. De plus, il a été allégué que d'autres centres de détention se trouvaient dans des lieux plus reculés, particulièrement dans les régions militaires, telles que Dougaj, Aghouinit, Mijek, Mehaires, Tifariti, Bir Lahlou, et Zoug.
7. Il a été allégué que d'autres violations graves de droits humains ont eu lieu dans les camps de Tindouf. Parmi les victimes de ces violations signalées par les sources figurent notamment des mineur.e.s. En premier lieu, de nombreux cas de torture ont été rapportés, dont les survivant.e.s portent encore les traces des blessures. Les allégations de torture sont particulièrement nombreuses et détaillées concernant les prisons d'Errachid et de Dheibya. Il a été rapporté que les personnes étaient détenues dans des cellules qui étaient des trous creusés dans le sol, et avaient les yeux bandés, les mains et les pieds attachés. Selon les informations reçues, plusieurs traitements violents et inhumains auraient causé la mort d'un grand nombre des victimes. En plus des conditions de détention insalubres telles que la sous-nutrition, la mauvaise hygiène, le développement de maladies par les détenu.e.s sans accès à des traitements, les périodes d'isolement longues et injustifiées, et l'interdiction de visite de

la famille, il a été rapporté que la torture était quotidienne, et que plusieurs corps étaient enterrés clandestinement tous les jours.

8. Selon les informations communiquées, ces camps de détention étaient des lieux d'exécutions extra-judiciaires. Les sources rapportent notamment des cas de viols répétés sur mineur.e.s, qui auraient ensuite été exécuté.e.s, ainsi que les membres de leur famille. A été rapporté ainsi le cas d'une enfant enlevée à l'âge de douze ans avec son père en 1978. Elle aurait été placée dans le camp de Rabouni, violée et tuée alors que les premiers signes d'une grossesse apparaissaient, pour être enterrée dans un lieu inconnu. Son père aurait été placé en détention dans la prison d'Errachid, endurant des années de torture puis tué également afin de dissimuler le crime. Il a également été rapporté que certains décès résultant de la torture auraient été mis en scène en tant que suicides, et enregistrés comme tels.

9. Selon les informations reçues, de nouveaux cas de disparitions forcées ont été rapportés. Ainsi, des cas de disparitions forcées de citoyen.ne.s malien.ne.s illégalement placé.e.s en détention sans aucun contrôle judiciaire dans les centres de détention secrets du Polisario ont été signalés. Les sources ont également porté de nouveaux à l'attention du GTDFI le cas de Khalil Ahmed Braih, conseiller de l'ancien SG du Polisario Mohamed Abdelaziz, qui aurait disparu dans des circonstances mystérieuses en 2009 de la prison militaire de Blida en Algérie, après avoir été arrêté par les services de sécurité algériens à Alger, où il était allé donner une conférence sur les droits humains à l'Université. Le GTDFI avait initialement transmis le cas au gouvernement de l'Algérie en 2014 sans réponse à ce jour.

10. Selon les sources, des insuffisances flagrantes existeraient quant au respect du droit à la vérité. Il a été rapporté notamment le cas d'enfants de victimes de disparitions forcées, nés, dans les camps de réfugié.e.s. Les sources rapportent que plusieurs réfugiés auraient été enlevés et torturé à la prison d'Errachid, tandis que les membres du Front Polisario prétendaient que ces personnes étaient mortes au combat, se sacrifiant pour le Front. Les familles des victimes étaient alors dans l'incapacité de revendiquer leur droit de connaître la vérité autour de la mort de leur proche et d'accéder à la justice et à la réparation.

11. Il a été rapporté que les familles des victimes ont pris les mesures nécessaires afin de connaître la vérité. Ainsi par exemple, elles ont adressé une lettre au 15^{ème} Congrès du Polisario tenu en décembre 2019 et au ministère algérien des Affaires étrangères, demandant l'établissement de la vérité et de la responsabilité pour les disparitions forcées dans la prison d'Errachid. Cependant, il a été rapporté que les familles sont ignorées et démenties par les dirigeants du Polisario et les autorités algériennes.

12. Selon les sources, les autorités algériennes ne semblent pas disposées à prendre des mesures pour déterminer le sort des victimes de disparition forcée dans les centres de détention du Polisario et refuseraient toujours de fournir toute information pertinente dont ils disposent sur le sort des victimes, y compris où elles se trouvent ou, si elles sont décédées, les circonstances et la cause de leur mort ou le lieu de leur inhumation.

13. Enfin, selon les informations reçues, des obstacles sont rencontrés quant à l'application du droit à la justice. Selon les sources, à ce jour les auteurs jouissent d'une impunité totale. En effet, il a été allégué qu'aucune mesure n'a été prise pour garantir des enquêtes approfondies, impartiales et efficaces et pour garantir la poursuite de tous les crimes liés aux personnes disparues sur le territoire algérien. Par conséquent, le droit à la réparation des victimes n'est pas non plus garanti.

14. La situation de violation des droits humains au sein des camps Tindouf et l'absence d'accès effectif à la justice pour les victimes ont été dénoncées à de multiples reprises par la communauté internationale et les organisations non gouvernementales. Le Groupe de travail a déjà transmis le 13 mars 2018 une allégation générale¹ à l'Etat algérien concernant des obstacles rencontrés dans la mise en œuvre de la *Déclaration sur la protection de toutes les personnes contre les disparitions forcées* dans les camps de Tindouf. Il avait déjà été rapporté des disparitions de prisonniers dans ces camps, pour lesquelles les familles des victimes mènent depuis de nombreuses années des actions auprès des autorités, sans qu'aucune information ne leur soit apportée. Le Gouvernement de l'Algérie avait répondu le 7 juin 2018².

¹ See A/HRC/WGEID/114/1, Annex I.

² See A/HRC/WGEID/116/1, p.19.

Iraq

15. The Working Group on Enforced or Involuntary Disappearances received information from reliable sources on obstacles encountered in the application of the Declaration on the Protection of All Persons from Enforced Disappearances in Iraq.

16. According The Working Group received information concerning alleged violations and obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance in Iraq.

17. It is reported that despite the documenting of continued enforced disappearances in Iraq by Iraqi security forces authorities in Baghdad and in the Kurdistan Region have done little to punish officers implicated in disappearances.

18. The source provided information on documented instances of enforced disappearance in Iraq between 2014 and 2020 as summarised in the following paragraphs.

Human Rights Watch Recorded cases of enforced disappearances between 2014 and 2017

19. According to information received, between April 2014 and October 2017, 78 cases of enforced disappearance were recorded by Human Rights Watch in Iraq. Of the 78 cases concerning both men and boys, thirty-four were detained by military and security forces at checkpoints during screening procedures as part of operations to counter ISIS; while another thirty-seven were taken from their homes. Thirty-three cases of enforced disappearances that occurred at checkpoints targeted people who were from or lived in areas that were under ISIS control. Those who were arrested at home were not given any information as to the reason for their arrest. However, relatives suspected that arrests were linked to their identity as Sunni Arabs. In at least six cases, the circumstances of the arrest allegedly indicated that they were carried out in relation to the fight against ISIS. In three of these cases, the arresting officers reportedly used excessive force leading in one case to the death of a relative. The 78 victims of enforced disappearance were detained either by the Popular Mobilization Forces (hereafter PMF) -allegedly under the control of the Prime Minister- or by the National Security Service and kept in unofficial places of detention. Those who reappeared were detained during 34 to 130 days and all reported having been subjected to torture.

20. It is reported that none of the families of the 78 victims of enforced disappearances had a clear idea of which authority they should contact to inquire about their fate and whereabouts of their relative. Thirty-eight families requested information regarding their missing relative from Iraqi authorities but received no information, while the other families had not sought information, fearing inquiries would seriously jeopardize their relatives' safety.

21. The source reported having transmitted, in June 2018, communications to the human rights adviser of the Prime Minister's Advisory Council in Baghdad and to the Kurdistan Regional Government's coordinator for international advocacy containing a list of the disappeared, indicating approximate dates and locations where they were last seen. On 18 September 2018, the Kurdistan Regional Government responded with information about the number of individuals its forces detained on the basis of suspected affiliation with ISIS and provided details regarding its arrest procedures. The response did not include any information on the fate and whereabouts of any of the victims listed in the communication by the source. Authorities in Bagdad never provided a response. According to the information provided by the source, the families of the cases who were brought to the attention of the authorities have not yet received any information on their whereabouts.

22. The source further reported that during the June-July 2016 military operations by Iraqi security forces against the Islamic State in the city of Fallujah in Anbar governorate, government forces carried out summary executions, enforced disappearances, and mutilation of corpses and beatings of unarmed men. On 5 June 2016, 600 men detained during the operation, most of whom belonged to the Mahamda clan, were released by security forces in the Hayy al-Shuhada area in Saqlawiva. These men reported that PMF fighters had taken away at least another 600 Mahamda men whose fate and whereabouts remained unknown.

23. In the first days of the military operation, Iraqi security forces forced civilians living in a town called Karma to leave the area, causing an exodus during which at least 70 young men disappeared, their families have no information about their whereabouts. The number of

missing men was confirmed to the source by a member of the Anbar governorate council. On 4 June 2016, then-Prime Minister Haider al-Abadi launched an investigation into abuses in Fallujah and ordered to arrest those responsible for “transgressions” against civilians. On 7 June 2016 al-Abadi announced the “detention and transfer of those accused of committing violations to the judiciary to receive their punishment according to the law.” In December 2019, five hundred bodies were discovered in a mass grave just outside Fallujah by the Iraqi authorities. The families assumed they were the remains of missing men from the Mahamda clan. According to the source, the authorities have not yet carried out any exhumation of the site, nor confirmed to the families of the disappeared whether the bodies belong to their missing relatives.

Disappearances of ISIS Suspects

24. In March 2017, the Iraqi Ministry of Interior held at least 1,269 detainees, including boys as young as 13 years old, without charge, in terrible conditions, with limited access to medical care, in three makeshift prisons, two of which are located in Qayyarah and the third one at a local police station in Hammam-al-Alil. On 2 February 2017, Justice Minister Haidar al-Zamili informed the source that neither the detainees in Qayyarah nor those charged with terrorism under the counterterrorism law (Law no. 13/2005) had been allowed to communicate with their families during the investigation period. Since 2016, many Iraqi families informed the source of the detention of their relatives on charges of ISIS affiliation and their inability to obtain information about their whereabouts. It is reported that the Iraqi army screened and detained men fleeing Mosul at an unidentified detention centre. These men were held without any possibility to communicate with the outside world. On 10 January 2017, the source received information that PMF fighters were coming to the screening site daily at night to take away groups of men. The men were taken regardless of whether their name figured on a list drawn by the authority with the identity of those “wanted” for ISIS affiliation. The detention of these men due to a presumed ISIS affiliation was confirmed to the source by a PMF fighter. The fate and whereabouts of these men is unknown.

Detention of Children in the Kurdistan Region of Iraq

25. The source reported the detention of children in the Kurdistan Region of Iraq. In November 2018, the source interviewed 20 boys aged 14 to 17 charged or convicted of ISIS affiliation at the Women and Children’s Reformatory in Erbil (one of three facilities holding children in the Kurdistan Region of Iraq). It is reported that 63 children were being held at the prison for terrorism-related charges, including 43 who had been convicted. All of the boys indicated that they were not allowed to communicate with their families while under the custody of the Kurdistan Regional Government’s security forces, Asayish, until they were taken to the reformatory where they were allowed to have family visits prior the trial. However, most of them were reportedly denied telephone calls after conviction, making it impossible for some of them to inform their families of their whereabouts. While the regional government’s coordinator for international advocacy informed that families were notified of the detention of their child and that detained children are allowed to call their families in presence of officers of the Asayish, the prison staff reported that the Asayish determined whether detainees can receive visits or telephone calls.

Disappearances of Detainees in Kirkuk

26. The source also reported disappearances of detainees in Kirkuk. In 2017, 350 detainees held by the Kurdistan Regional Government in the city of Kirkuk were feared to have been forcibly disappeared. Those missing were mainly Sunni Arabs, internally displaced to Kirkuk or residents of the city, detained by the Asayish on suspicion of ISIS affiliation after the regional forces took control of Kirkuk in June 2014. Local officials reportedly indicated that when Iraqi federal forces regained control of the area on 16 October 2017, the detainees were no longer present in the official or unofficial detention facilities in Kirkuk. Following demonstrations in Kirkuk on 7 November 2017 demanding information on people allegedly detained by Asayish forces, then Prime Minister Haider al-Abadi requested an investigation on the disappearances. However, on 8 November 2017, the former head of the security committee of Kirkuk’s provincial council, reportedly denied any involvement of the Asayish forces in any disappearances and blamed these on US forces previously present in Kirkuk. Kirkuk’s acting governor and a Kirkuk police chief reported that following the protest, Asayish forces handed 105 detainees over to Iraqi federal forces in Kirkuk. These detainees

were first held in Kirkuk and then transferred to facilities in Sulaimaniya. Families have submitted complaints to the Kirkuk branch of Iraq's Human Rights Commission regarding the disappearance of at least 350 other men whom the Kurdistan Regional Government had allegedly detained in and around Kirkuk.

27. Between August 2015 and October 2017, 27 Sunni Arab men were witnessed being arrested by identifiable Asayish forces in Kirkuk or south of the city. Relatives of the 27 men have not been able to communicate with them since their arrest, nor receive any official information about their whereabouts. For all 27 cases, relatives reported that they had asked local Asayish forces or local police about their relatives but never received an official acknowledgement of their detention or information about where they were being held or why. In some cases, relatives reported that they were able to obtain information from informal channels indicating that their relatives were being held by the Asayish forces in other parts of the Kurdistan Region.

28. In 2017, detainees who were released from the al-Salam military base, informed four families that their disappeared relatives were being held at this location. The Asayish forces allegedly run a number of informal detention facilities in Sulaimaniya.

Disappearances linked to the October 2019-March 2020 Protests

29. It is further reported that enforced disappearances occurred in the context of the October 2019-March 2020 protests. These protests started in Baghdad and other cities in central and southern Iraq on 1 October 2019. Seven people, including a 16-year-old boy, were reported missing on 7 October in and around Baghdad's Tahrir Square, where they were participating in ongoing demonstrations. As of 2 December 2019, four of them were still missing. Their relatives inquired about them at police stations and government offices, to no avail.

30. Nine other cases were reported of persons who had been detained at the protests and subsequently went missing. However persons associated with the nine reported cases were allegedly too frightened to share details as they feared it could impact on the safety of the missing relative.

31. The source documented in details a number of abductions followed by a period of disappearance.³ These included:

(a) A woman abducted on 2 November 2019 while she was on her way home after having distributed food, water, and first aid kits to protesters in Tahrir Square. She was released on 13 November 2019 and had been kept blindfolded for the entire period of her enforced disappearance;

(b) A man abducted on 7 October 2019 during the first wave of protests and released on 24 October 2019;

(c) A man arrested on 20 November 2019 without being able to contact anyone. He was reported missing and a complaint was filed at a local Baghdad police station. He was released on 28 November 2019 and reported that he had been arrested by federal police at a checkpoint on his way to the 20 November protests. On 21 November, he was reportedly presented to a judge, who told him that no charges were being brought against him. However, he remained under custody incommunicado until his release. He was therefore forcibly disappeared between 20 and 28 November;

(d) A man who was last seen on 22 October 2019 at the Tahrir Square protest. Despite inquiries at four police stations, his fate and whereabouts remained unknown as of December 2019;

(e) A man who was last seen on 28 October 2019 at the front line of the protests. His relatives inquired about him at police stations and government offices, to no avail. He was still missing as of December 2019;

(f) A woman reportedly abducted on 8 November 2019 at the protests after having posted a video of herself on Facebook criticizing the prime minister and expressing support

³ See Human Rights Watch submission to the WGEID, <https://www.hrw.org/news/2020/05/18/iraq-human-rights-watch-submission-working-group-enforced-or-involuntary>.

for the protesters. Relatives inquired about her in two police stations in Baghdad, to no avail. She was released on 12 November 2019;

(g) A 16-year-old boy forcibly disappeared on 28 November 2019 after he went to Tahrir Square to protest. Relatives inquired about him in three police stations, to no avail. He was still missing as of December 2019.

Saudi Arabia

32. The Working Group on Enforced or Involuntary Disappearances received information from reliable sources on obstacles encountered in the application of the Declaration on the Protection of All Persons from Enforced Disappearances in Saudi Arabia.

33. According to the information received, the existing legal framework in Saudi Arabia does not offer sufficient protection against enforced disappearance. The unchecked and increased concentration of power with the royal authority which has undermined judicial independence, has contributed to a culture of impunity, and investigative rules and practices have fostered the occurrence of enforced disappearances. Enforced disappearances have also been the result of a repressive environment against manifestations of free speech and peaceful assembly. Detention and disappearance have been used as tools to suppress beliefs and behaviours that do not align with state-sanctioned political and religious dogma.

Trends and manifestations of enforced disappearance in the Kingdom of Saudi Arabia

34. It is reported that although the widespread use of enforced disappearance is concealed behind a culture of secrecy, accessible information indicates clear trends of occurrence of both short and long term enforced disappearances. Sources allege that recorded cases suggest a trend whereby enforced disappearance is used to specifically target and silence dissenting voices, particularly those of human rights defenders, journalists and religious figures. Such disappearances are generally short-term, with victims often 'reappearing' and subjected to unfair trials. Enforced disappearances is allegedly used as a subjugation technique and interrogation practice targeting dissenting voices.

35. Disappearances occur through various means such as the use by intelligence services of arrest without warrants whereby victims are abducted by officers in plain clothes who do not present any paperwork nor explain the reasons for the arrest. The intelligence services use their extensive powers in security operations in both legitimate operations and politically motivated ones. Often individuals are abducted from their homes, during the evening or late at night. This modus operandi has reportedly been observed in a number of cases documented by the sources.

36. Reportedly, persons abducted in such ways are taken to an unknown location where they are forcibly disappeared for anywhere between a few days to several years. In cases for which the whereabouts eventually becomes known, the victims are held incommunicado, and in solitary confinement, for extended periods of time, or reappear before prosecutors in order to be charged and put on trial.

37. It is further reported that the secret police agency of the Presidency of State Security known as the 'Mabahith' uses methods that lead to systematic violations including enforced disappearances, torture and arbitrary detention. The Mabahith controls detention centre such as Al Ha'ir or Ulaysha where detainees are reportedly kept outside the protection of the law. The use of enforced disappearance and arbitrary detention by the secret police are said to be linked to the systematic use of torture to extract confessions. These practices are said to be strengthened by an obvious lack of accountability, as allegations of torture or other forms of ill-treatment do not appear to be taken seriously and officials are never prosecuted for committing such acts. Following a visit to Saudi Arabia in 2017, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism concluded⁴ that Saudi Arabia's failure to provide minimum procedural safeguards during detention and interrogation, as well as its judicial practice of admitting coerced confessions into evidence, strongly suggests that the practice of torture is officially endorsed.

⁴ See A/HRC/40/52/Add.2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/363/55/PDF/G1836355.pdf?OpenElement>, accessed 6 May 2020.

38. Moreover, it is alleged that enforced disappearances are committed when the authorities refuse to acknowledge the continued detention and whereabouts of those subjected to incommunicado detention. The practice of holding individuals incommunicado in Saudi Arabia is reportedly characterised by ill-treatment and torture, used as a means of interrogation, and lack of access to legal representation. As a result, it is alleged that the practice of incommunicado detention in Saudi Arabia systematically amounts to enforced disappearance.

39. The online detainee database (Nafetha) operated by the Ministry of Interior provides information regarding the legal status of detainees and other information such as scheduled trial dates. However, it is reported that the database does not provide information about all detainees held at Mabathith prisons and does not include persons held at other prisons.

Shortfalls of the legal framework

40. It is reported that Saudi Arabia does not have specific legal provisions criminalising enforced disappearance and the existing legislation fails to offer sufficient protection against this crime, leaving persons vulnerable to the discretionary practices of the institutions holding criminal justice powers.

41. Furthermore, the sources report a number of procedural shortcomings. For instance the Committee against Torture (CAT) in its 2016 Concluding observations⁵ on Saudi Arabia noted with concern that the 2013 Code of Criminal Procedure provides the right to all detainees to have access to legal counsel and contact a person of their choice, yet the “laws do not specify a time frame within which officials must honour the right of persons deprived of their liberty to have access to a lawyer [...], moreover] lawyers must obtain the permission of investigators in order to access their clients”(para.14). Furthermore, laws do not guarantee the right to confidential communication between lawyers and their clients, nor do they provide a time frame within which officials must honour the right of detained persons to contact a person of their choice, but they give extended powers to investigators who have the discretion to bar accused persons from engaging in such communications for up to 60 days. Detainees can be held without charge for up to six months and there is no requirement to promptly present persons deprived of liberty to a judge who has the power to order their release. Officials have reportedly not implemented the requirements to promptly notify persons deprived of liberty of the reasons for their detention and to receive language assistance such as translation and interpretation.

42. The CAT also expressed concern at the provisions of the 2014 counter-terrorism legislation which, inter alia, allowed authorities to detain individuals for up to 90 days without access to family members or legal counsel. This law also allowed security forces to hold criminal suspects in custody for up to six months without judicial review. In November 2017, the law was replaced by a reportedly more repressive counter-terrorism legislation which criminalises a wide spectrum of acts, including acts which fall under the rights to freedom of opinion, expression, peaceful assembly and association, as well as freedom of thought, conscience and religion. Articles 19 and 20 of the 2017 law grant the Public Prosecution the authority to hold the accused in incommunicado detention for up to 90 days “if the investigation so warrants,” and grant the Specialised Criminal Court (“SSC”) the power to extend the period of custody indefinitely, including incommunicado detention. In practice, the use of incommunicado detention puts individuals at risk of disappearance.

The inadequacy of the institutional framework

43. It is reported that in recent years the restructuring of the security apparatus have centralised security powers under the authority of the King. On 20 July 2017, the Presidency of State Security was established by royal decree, with authority over all security institutions and a direct line of reporting to the King and the Crown Prince. The Presidency of State Security enjoys large discretionary powers including the authority to conduct “search, investigation, seizure, criminal and administrative prosecution” without judicial oversight, leaving individuals more vulnerable to enforced disappearance.

⁵ See CAT/C/SAU/CO/2, 2016, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/SAU/CO/2&Lang=En, accessed 6 May 2020.

44. Public prosecution was also placed under the purview of the Royal Court, which is itself under the effective control of the King. Therefore, Judges are appointed and discharged by Royal Decree, based on a proposal of the Supreme Judiciary Council, whose presiding members are also appointed by the King. There is no separation between the judiciary and the executive power, thus hindering judicial independence. It is reported that the judiciary is required to coordinate its decisions with executive authorities, with the King and Crown Prince as arbiters. It is also alleged that the appointment of a new head of the Royal Court and the promotion of several public prosecutors, consolidate nepotism in the judicial system.

45. The absence of effective checks and balances has reportedly had an impact on the protection against human rights violation including enforced disappearances and related violations. The absence of legal or judicial constraints and accountability mechanisms does not allow for any avenue to address the practice of enforced disappearances in Saudi Arabia.

Absence of effective remedy for victims and families

46. There are allegations as to the lack of mechanisms providing effective remedies to relatives. Relatives who have made enquiries with the police as to the whereabouts of the disappeared individual are not provided with any official information and receive no additional direction or support in identifying additional avenues of recourse. Moreover, in the context described above there is no access to habeas corpus which constitute an obstacle to article 3 of the Declaration.

47. In addition, there is reportedly an important risk of reprisal in Saudi Arabia, cultivating a culture of fear. There are documented cases of individuals being detained, in violation of article 13 of the Declaration, after speaking out about the arrest of family members. This practice disincentivises public efforts to hold the authorities to account. It is reported that even when information regarding a disappeared person is sought non-publicly, through enquiries at police stations or when cases are referred to the UN Working Group on Enforced or Involuntary Disappearances, families have been threatened by the authorities. It was further stressed by the sources that Saudi Arabia was mentioned in 8 out of 10 annual reports of the UN Secretary-General on acts of intimidation and reprisal for cooperation with the United Nations in the field of human rights. The fear of reprisals is further heightened by the prospect that enquiries with authorities will put the disappeared person at greater risk of abuse⁶.

48. Lastly, it is reported that even in cases when a person has been forcibly disappeared and later freed, fear of reprisal means that such cases are never taken to court, undermining accountability at the domestic level. This is exemplified by the case of Khalid Al Omair whose case was addressed by the UN Human rights Special Procedures mechanism in a communication⁷ addressed to the Government of Saudi Arabia in July 2018 which provided a reply⁸ on 23 October 2018. Khalid Al Omair was allegedly forcibly disappeared and detained in July 2018 following his filing of an allegation of torture during his previous detention of eight years.

49. Sources assert that the practice of enforced disappearance in Saudi Arabia is widespread and systematic. The obstacles to the implementation of the 1992 Declaration are reportedly pervasive and deliberate, embedded in the legal, institutional and policy framework of Saudi Arabia. The utilisation of broad and repressive legislation, the systematic practices of security agencies and officers including arrest methods and interrogation techniques, and the lack of available remedies are all systemic obstacles to the implementation of the provision of the Declaration. Sources further allege that there is a risk that the practice of enforced disappearance could constitute a crime against humanity

⁶ Saudi Arabia was listed in the following annual reports of the UNSG: 2019 report (A/HRC/42/30), 2018 report (A/HRC/39/41), 2017 report (A/HRC/36/31), 2015 report (A/HRC/30/29), 2014 report (A/HRC/27/38), 2013 report (A/HRC/24/29), 2012 report (A/HRC/21/18), 2011 report (A/HRC/18/19).

⁷ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23967>, accessed 6 May 2020.

⁸ See <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34374>, accessed 6 May 2020.

Annex II

Standard procedure cases

Burundi

1. The Working Group transmitted 35 cases to the Government, concerning:

(a) Désiré Muheto, Burundian citizen born in 6 December 1982, reportedly abducted on 4 January 2016 in downtown Bujumbura, at the parking of public transport buses to the northern districts of the capital, by police officers;

(b) Maxime Banyakubusa, Burundian citizen born on 4 November 1959, allegedly abducted on 11 May 2015 near the Musaga area office by police and military officers;

(c) Landry Ndiokubwayo, Burundian citizen born on 3 August 1998, allegedly abducted on 12 December 2015 from the home of a friend in district III, Jabe, Bwiza urban area, Mukaza commune, Bujumbura Mairie by police officers and soldiers;

(d) Charles Ndizeye, Burundian citizen born in 1992, reportedly abducted on 25 December 2015 in Quartier II, Ngagara urban area, Ntahangwa town, Bujumbura mairie, around 7 p.m., by soldiers commanded by a commander of the Muzinda Combat Engineering Camp, whose identity is known;

(e) Longin Mbazumutima, Burundian citizen born in 1983, allegedly abducted on 20 December 2015 on 3rd avenue, Musaga urban area, Muha commune, Bujumbura Mairie, by agents of the National Intelligence Service;

(f) Arthémon Misago, Burundian citizen born in 1977, allegedly abducted on 14 December 2015 at 6 a.m. in his home in Bujumbura by police officers from the Musaga urban area;

(g) Fiacre Ndayizeye, Burundian citizen born in 1990, allegedly abducted on 11 December 2015 at the Muha bridge on the road leading from Musaga by agents of the National Intelligence Service;

(h) Albert Dushime, Burundian citizen born on 16 February 1986, allegedly abducted on 22 November 2015 at the Kirundo centre, zone, commune and Province by a police commissioner and an agent of the National Intelligence Service whose identities are known;

(i) Emmanuel Irakoze, Burundian citizen born in 1989, allegedly abducted on 11 December 2015 at his home by an agent of the National Intelligence Service whose identity is known;

(j) Clovis Ntukamazina, Burundian citizen born on 28 October 1988, allegedly abducted on 21 October 2015 around 6 p.m. at Kinindo district, Bujumbura Mairie at the home of a friend by police officers of the Anti-Riot Brigade;

(k) Zacharie Nyandwi, Burundian citizen born on 12 June 1973, allegedly abducted on 13 December 2015 in the Mukoro district in the centre of Kayanza province by an official of the National Intelligence Service whose identity is known;

(l) Christophe Kavyino, Burundian citizen born in 1973, allegedly abducted on 6 November 2015 at his home located in the urban area of Cibitoke, by police officers from the urban area of Cibitoke, commune Ntahangwa, Bujumbura Mairie;

(m) Jean Claude Ngabowintore, Burundian citizen born in 1985, allegedly abducted in May 2015 on Colline Kirehe, Bugabira commune, Kirundo province by police officers from the Bugabira commune police station;

(n) Arsène Ndayikunda, Burundian citizen born in 1990, allegedly abducted on 11 November 2015 on the 5th avenue, Cibitoke urban area, Ntahangwa commune, Bujumbura Town Hall at his home by commander of the Muzinda Combat Engineer Camp, Bubanza province, whose identity is known;

(o) Santos Nibigira, Burundian citizen born on 3 August 1996, allegedly abducted on 11 December at home by police officers working in support of the protection of institutions;

(p) Eric Bigirimana, Burundian citizen born in 1987, reportedly abducted on 12 April 2016 in Bujumura in the urban area of Kinama, Carama district by an agent of the National Intelligence Service whose identity is known;

(q) Salvator Bakundukize, Burundian citizen born in 1974, reportedly abducted on 15 August 2016 with his two sisters Ms. Marie Gakobwa, Ms. Jeanine Bakundukize and his brother Dieudonné Bakundukize on the road between Bugendana and Kibimba by agents of the National Intelligence Service;

(r) Thaddée Nduwimana, Burundian citizen born in 1985, allegedly abducted on 31 March 2018 at the peace village of Vwegwa in Ngozi by members of the Imbonerakure militia and the head of the national intelligence service in Ngozi, whose identity is known;

(s) Emmanuel Nahayo, Burundian citizen born in 1966, reportedly abducted on 19 May 2016 with three other soldiers in the urban area of Kamenge, Ntahangwa commune, Bujumbura Mairie by police officers and an agent of the National Intelligence Service whose identity is known;

(t) Jean Prime Kwizera, Burundian citizen born in 1990, reportedly abducted on 16 January 2016 on the Avenue de l'Université by an agent of the National Intelligence Service whose identity is known;

(u) Alex Manirakiza, Burundian citizen born in 1976, reportedly abducted on 21 January 2016 at his home in the district of Cibitoke, by soldiers under the orders of a commander of the Muzinda Combat Engineer Camp whose identity is known;

(v) Christian Vyamungu, Burundian citizen born in 1993, reportedly abducted on 8 January 2016 in the Ngozi district by police officers;

(w) Daniel Ndayiragije, Burundian citizen born in 1988, reportedly arrested on 5 October 2017 in the urban area of Cibitoke by a police officer of the rank of brigadier, whose identity is known;

(x) Déo Gahungu, Burundian citizen born in 2001, reportedly abducted on 22 December 2017 on the Mutobo Hill, by the commander of the 221st battalion of Ruyigi whose identity is known;

(y) Melchior Hakizimana, Burundian citizen born in 1982, reportedly abducted in April 2017 on his way to the Kinama market by a member of the Imbonerakure militia, whose identity is known;

(z) Jean Claude Nshimirimana, Burundian citizen born in 1986, reportedly abducted on 13 January 2016 at his home by a commander of the Combat Engineer Camp in Muzinda, Bubanza province, whose identity is known;

(aa) Aimé-Blaise Bigirimana, Burundian citizen born in 1981, was reportedly abducted on 18 February 2016 at the Boulevard du Peuple Murundi, Bujumbura Mairie, by an agent of the National Intelligence Service whose identity is known;

(bb) Dieudonné Bakundukize, Burundian citizen born in 1977, reportedly abducted on 15 August 2016 with his two sisters Ms. Marie Gakobwa, Ms. Jeanine Bakundukize and his brother Salvator Bakundukize on the road between Bugendana and Kibimba by agents of the National Intelligence Service;

(cc) Gaston Cishahayo, Burundian citizen born in 1978, reportedly abducted on 19 October 2017 at around 9 p.m. at the "Kumuhora" bar located in Bugarama by the provincial head of the National Intelligence Service in Muramvya, the provincial commissioner of police in Muramvya and a police officer whose identities are known;

(dd) Marie Gakobwa, Burundian citizen born in 1982, reportedly abducted on 15 August 2016 with her two brothers Salvator Bakundukize, Dieudonné Bakundukize and her sister Jeanine Bakundukize on the road between Bugendana and Kibimba by agents of the National Intelligence Service;

(ee) Suzanne Ncamugwanko, Burundian citizen born in 1982, reportedly abducted on 13 January 2017 on Gitwe hill, Mageyo zone, commune Mubimbi, province Bujumbura rural by a member of the militia Imbonerakure, whose identity is known, accompanied by two policemen;

(ff) Josianne Keranda, Burundian citizen born on 1 January 1981, reportedly abducted on 26 April 2018 at around 3 p.m., Bururi Avenue by agents of the national intelligence service;

(gg) Stany Ndayizamba, Burundian citizen born in 1989, allegedly abducted on 10 November 2018 in the area of Maramvya hill, by the provincial head of the National Intelligence Service of Bujumbura rural province whose identity is known;

(hh) Jean-Paul Nduwayo, Burundian citizen born in 1980, allegedly abducted on 17 September 2018 at Gaharawe hill, Gatumba the provincial head of the National Intelligence Service of Bujumbura rural province whose identity is known;

(ii) Jeanine Bukundukize, Burundian citizen born in 1993, reportedly abducted on 15 August 2016 with her two brothers Salvator Bakundukize, Dieudonne Bakundukize and her sister Marie Gakobwa on the road between Bugendana and Kibimba by agents of the National Intelligence Service.

Sri Lanka

2. The Working Group transmitted 31 cases to the Government, concerning

(a) Amurthampillai Tharmalinkam allegedly abducted on 19 February 1986 from Udumpankulam, Eastern Province by the Government Intelligence Service;

(b) Kandadamy Thampipillai allegedly arrested on 21 August 1990 in Murrokkodan Chenai Army Camp, Batticaloa, Eastern Province by members of the Sri Lankan Army;

(c) Devaranjan Devasakajam allegedly last seen on 16 April 2009 prior to his surrender to the Sri Lankan armed forces;

(d) Ganachelvan Uthayakumar allegedly arrested on 3 July 1990 in Inspector Eatham village, Pottuvil by the Sri Lankan army;

(e) Gnamuthu Puvanendran allegedly arrested on 8 September 1985 in Thankavelayuthapuram by the Sri Lankan army;

(f) Ilayathampi Thayananthan allegedly abducted on 18 May 1991 from Kanchikudicharu by Sri Lankan army;

(g) Sivanadiyer Vivekanantharajah allegedly abducted on 25 November 1991 near Thirukkivil Hospital by the Special Task Force;

(h) Kaaspiathi Kopalaretnam allegedly abducted on 8 April 1985 from Thirukkivil, Manka Maari Amman Estate by the army;

(i) Kanthaiya Aananthan allegedly abducted on 2 August 1990 from his residence in Kundumadu, Pottuvil-09 by the Sri Lankan army;

(j) Niroja Rajeswaran allegedly captured on January 2009 from Mannkandal, Puthukudiyiruppu, Mullaitivu District by the Sri Lankan army;

(k) Varatharajan Ramasamy allegedly last seen in 2010 at Vavuniya Government Hospital (Vavuniya, Vavuniya District, Northern Province);

(l) Tharsika Arulanantham allegedly last seen on 15 May 2009 in Kappaladi, Mullivaikal, Mullaitivu District, Northern Province;

(m) Mayuran Sivanolipatham allegedly last seen in May 2009 at the Polonnaruwa Government Hospital (Polonnaruwa, Polonnaruwa District, North Central Province);

(n) Mary Justina Mariyathas allegedly last seen in July 2009 at Madina Nagar in Poonthottam Rehabilitation Centre in Vavuniya (Vavuniya District, Northern Province);

- (o) Abirami Premnath allegedly last seen in May 2009 at an IDP camp in Chettikulam, Vavuniya District located in an area controlled at the time by the Sri Lanka Government;
- (p) Arumukam Lokachchanthiran allegedly abducted on 10 August 1990 from Umiri Thandiyadi, Thirukkivil by individuals believed to be members of the Sri Lankan army;
- (q) Vickinarasa Selvanayagam allegedly abducted by the Sri Lankan Army on an unknown date from Mullivaikal Mullaithivu district, Northern province;
- (r) Jenitamary Chandrasekaram allegedly last seen on 27 November 2008 in Puthukkudiyiruppu hospital in Mullaithivu district, Northern province;
- (s) Yogeswaran Vadivel allegedly last seen on 9 February 2009 driving a motorbike in an area controlled by the Sri Lankan army in Suthanthirapuram village, Mullaithivu district, Northern province, when he has hit by a shell attack;
- (t) Parapagazan Seevazatnom allegedly abducted on 5 November 1990 from Vinayagapuram village, Thirukkivil, Ampara district, Eastern province by members of Sri Lanka's Special Task Force;
- (u) Mohanathasan Sakthivel allegedly abducted on 6 August 1996 from Kanchikudicharu Tank, Ampara district, Eastern province by members of the Special Task Force;
- (v) Jegatheswaran Nagarasa allegedly arrested on 17 May 2009 at the Omathai Army camp's check point, Vavuniya district, Northern province by the Sri Lankan army;
- (w) Suganthini Rasiah allegedly disappeared after entering an area controlled by the Sri Lankan army through Mullivaikal Mullaithivu district, Northern province;
- (x) Thawarasa Subramaniam allegedly abducted on 23 June 1995 from Thandiyadi, Ampara District, Eastern Province by members of the Sri Lanka's Special Task Force;
- (y) Surendran Thavasarasa allegedly abducted on 29 October 2007 from Thirukkivil, Ampara District, Eastern Province by members of the Sri Lanka's Special Task Force;
- (z) Jeganathan Thillainayakam allegedly arrested on 20 June 1991 in Tamarakulam, Ampara District, Eastern Province by members of the Sri Lanka's Special Task Force;
- (aa) Vijendran Thambiyappah allegedly arrested on 5 December 1990 in Tirukovil, Ampara District, Eastern Province by members of the Sri Lanka's Special Task Force;
- (bb) Kulendra Rasiah allegedly abducted on 23 December 2006 from Tirukovil by a paramilitary group believed to be linked to the military;
- (cc) Tharmalingam Kanapathipillai allegedly arrested on 11 March 2009 in Omathai, Vavuniya district, Northern province by members of the Omathai Army Group;
- (dd) Thiruchelvam Albert allegedly abducted on 5 November 1989 from Thirukkivil, Ampara, Eastern Province by the Sri Lanka's Special Task Force;
- (ee) Kesavaramanan Marimuthu allegedly last seen on 17 May 2009 at Vadduval Veddai.

Syrian Arab Republic

3. The Working Group transmitted 36 cases to the Government, concerning
 - (a) Mohammad Al Ahmad Al Kamesh, allegedly arrested on 24 January 2014 by agents of the Military Security located at a checkpoint near the Hama fire station;
 - (b) Hatem Al Mohammad, allegedly arrested on 20 March 2013 by Air Force Intelligence agents in military uniforms at a checkpoint located at the crossroad between the street that leads to Abil village in Homs and the ring road;
 - (c) Ismael Ismael, allegedly arrested on 1 February 2013 by members of the Military Security Branch near "blue beach" in Latakia;

- (d) Basem Hakem, allegedly arrested on 7 May 2012 by Military Security Branch officers during a raid on his house in Sifsafiyeh;
- (e) Raed Hakem, allegedly arrested on 7 May 2012 by Military Security Branch officers at a checkpoint in Muradah;
- (f) Yahia Al Khalil, allegedly arrested on 5 January 2013 by the Syrian Armed Forces at a checkpoint in Al Ghouta district in Homs;
- (g) Abdullah Badr, allegedly arrested on 27 May 2014 by a patrol of the Military Security Branch during a raid on his house;
- (h) Ghasan Khalifa, allegedly arrested on 23 June 2012 by members of the State Security at a checkpoint near Al-Naim;
- (i) A minor at the time of alleged disappearance, allegedly arrested along with his father Ghasan Khalifa on 23 June 2012 by members of the State Security at a checkpoint near Al-Naim;
- (j) Anwar Korabi, allegedly arrested on 3 March 2014 by military intelligence services at the main checkpoint in Banias;
- (k) Mohamed Maher Yasin, allegedly arrested on 25 September 2012 by State security forces in a library near the Victoria Bridge in Saqba;
- (l) Okbah Nor Aldien, allegedly abducted on 1 November 2011 by the Air force security in Saqba;
- (m) Ahmad Haj-Bakri, allegedly arrested on 3 June 2012 at a checkpoint located at the crossroad of the road leading to Latakia's Industrial City;
- (n) Mohamad Tabanja, allegedly arrested on 3 June 2012 at a checkpoint located at the crossroad of the road leading to Latakia's Industrial City;
- (o) Mohammad Shakra, allegedly arrested on 1 July 2012 by the Military Intelligence Directorate at a checkpoint located at the entrance of Demsarkho village, north of Latakia, near the Presidential Palace;
- (p) Ahmad Zanelkji, allegedly arrested on 19 March 2013 by the Syrian Army at a checkpoint located at the entrance of the city of Yabrud;
- (q) Ali al Mesleh, allegedly arrested on 11 January 2013 inside the Khan al Sheeh refugee camp, by armed groups affiliated to the Air Security forces;
- (r) Bashar al Mesleh, allegedly arrested on 11 January 2013 inside the Khan al Sheeh refugee camp, by armed groups affiliated to the Air Security forces;
- (s) Abdo Al Saghier, allegedly arrested on 21 July 2012 at a checkpoint in Adra by Air Force Intelligence officers;
- (t) Raslan Al Khatib, allegedly abducted on 26 February 2012 in Damascus by members of the Air Force Intelligence as he was travelling to receive medical treatment;
- (u) Juma Hasno, allegedly arrested on 3 July 2013 at the Syria- Lebanon border by members of the Political Security Directorate as he was travelling to Lebanon for work;
- (v) Anas Hasno, allegedly arrested on 12 July 2012 at his house in Al Tremseh by the Syrian Air Force;
- (w) Khaled Alkhaled, allegedly arrested on 12 July 2012 in a raid on his house in al Tremseh, Mahardah district, Hamah governate by members of the Syrian Air Force;
- (x) Mohamad Al Sattam, allegedly arrested on 12 July 2012 by members of the Air Force Intelligence in the northern neighbourhood of Taramsah village;
- (y) Museaf Al Humaidi, allegedly arrested on 6 November 2011 in Kafr Zita, by the Syrian army while he was travelling to work;
- (z) Jalal Alsotel, allegedly arrested on 4 July 2013 by the Shabiha armed group reportedly associated with the Syrian Army in Salamyah, Syria;
- (aa) Abdulhamid Kabbani, allegedly arrested on 20 March 2012 by military security services at a crossing point located in the Bustan al-Qasr neighbourhood of Aleppo;

(bb) Mohammad Hamdaoui, allegedly arrested on 1 April 2013 by the Military Security in Damascus on grounds of his alleged involvement in the Free Syrian Army;

(cc) Mohammed Almassry, allegedly arrested on 30 June 2012 in Jdhidet Artwz by the Syrian Armed Forces;

(dd) Ali Al Khazali, Iraqi national, allegedly arrested on 15 October 2006 in the Syrian town of Set Zaynab, 10 km south of Damascus by members of the Criminal Security Branch of Bab Musla;

(ee) Hazim Al Zameli, Iraqi national, allegedly arrested on 15 October 2006 in the Syrian town of Set Zaynab, 10 km south of Damascus by members of the Criminal Security Branch of Bab Musla;

(ff) Ali Da'doush, allegedly arrested on 18 June 2014 by agents of Political Security Branch in military uniforms near the bus station in al Karaj area of Homs city, from where he was supposed to travel home to Houwarin village;

(gg) Suleiman Al Zaid, allegedly arrested on 5 March 2013 with his three daughters, by the Syrian Armed Forces at the Al Van checkpoint near al Bardeh village in the suburbs of Damascus;

(hh) Marwa Al Zaid, allegedly arrested on 5 March 2013 with her father Suleiman and two sisters by the Syrian Armed Forces at the Al Van checkpoint near al Bardeh village in the suburbs of Damascus;

(ii) A minor at the time of alleged disappearance, allegedly arrested on 5 March 2013 with her father Suleiman and two sisters by the Syrian Armed Forces at the Al Van checkpoint near al Bardeh village in the suburbs of Damascus;

(jj) A minor at the time of alleged disappearance, allegedly arrested on 5 March 2013 with her father Suleiman and two sisters by the Syrian Armed Forces at the Al Van checkpoint near al Bardeh village in the suburbs of Damascus.

Annex III

Reply to general allegation

Brazil

1. Regarding the letter sent by the Chair-rapporteur of the Working Group on Enforced or Involuntary Disappearances (WGIED) of the Human Rights Council (HRC), on general allegations received in relation to the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance in Brazil, the following information has been received from the Ministry of Women, Family and Human Rights (MMFDH).

2. Initially, it is worth noting that the facts narrated in the allegations contain numerous inaccuracies. One of them concerns the mandate of the Special Commission on Political Death and Disappearances (CEMDP). According Law 9,140, of December 4, 1995, which created it, its mandate is as follows:

[QUOTE]

- I - Proceed with the recognition of dead and disappeared persons, under the terms of Law 9,140;
- II - Make efforts to locate the bodies of disappeared persons in the event of evidence as to where they may be deposited;
- III - Issue an opinion on the requirements in relation to the indemnity that may be formulated.

[UNQUOTE]

3. In fact, CEMDP has consolidated itself over the years, as an important body in the realization of the right to memory and truth and in the search and identification of politically disappeared persons. Its performance did not suffer any interruption in recent months. However, the alleged power mentioned in the letter of allegations to “rectify death records” is not consistent with the Brazilian legal system. The deaths are recorded by the offices of civil registry of natural persons, as stated in Law no. 9,140. Decisions of the Commission on recognition of disappeared persons can only substantiate requests for death certificates, under the terms of the same legal diploma.

4. As for the members of the CEMDP, it should be noted that, as established in article 5 of the aforementioned law, CEMDP members are of free choice and appointment by the President of the Republic, who also has the prerogative to indicate, among them, who will preside over it, with a casting vote. There is, therefore, no arbitrariness in changing the composition of the CEMDP. It should be also underlined that there was no change to the characteristic of the Commission of bringing together the different powers of the Republic and civil society, its composition has been maintained in accordance with law:

[QUOTE]

Art. 5. § 1 - Of the seven members of the Commission, four will be chosen:

- I - among the members of the Human Rights Commission the Chamber of Deputies;
- II - among persons with ties to family members the persons mentioned in the list in Annex I;
- III - among the members of the Federal Public Prosecution Service; and
- IV - among the members of the Ministry of Defense.

[UNQUOTE]

5. Changes in the composition of the CEMDP did not cause setbacks in the search and identification of politically disappeared persons. All undertakings of the Commission are

being fulfilled; especially those related to bone remains exhumed from the clandestine ditch of Dom Bosco Cemetery, located in Perus, São Paulo. The activities undertaken by the formerly known as Working Group of Perus are still governed by the same instruments and performed by the same persons. With regards to financial support, there is an expected increase of resources, on the basis of a revision of the Letter of Agreement signed with the International Commission on Missing Persons (ICMP).

6. There is, furthermore, an inaccuracy with regard to the legal basis for the analysis of Perus. The Federal Union has never been judicially ordered to proceed with analyses. There is no “judicial decision” condemning the Union to do so, but a voluntary agreement entered into by the Union and the other participants, in an environment of conciliation, approved by the competent court, in full implementation process.

7. CEMDP, as well as MMFDH, has been working to keep the search and identification activities ongoing, always respecting the spaces of dialogue with family members of politically disappeared. It is also noted that one of the first actions of the current CEMDP president was to attend a meeting with relatives of politically disappeared persons at the Center of Forensic Archeology and Anthropology of the Federal University of São Paulo (CAAF/UNIFESP), where the bone remains of Perus are analyzed.

8. Regarding the impact of Decree 9,759/2019 on working groups that have among their functions the search for disappeared persons, it is emphasized that the norm regulates the competence of CEMDP in its attribution to “make efforts to locate the bodies of disappeared persons” is Law 9,140/95. Such assignment, therefore, cannot be changed by decree, so that the aforementioned legal diploma did not change the substance of the work being undertaken by the Commission.

9. Regarding the questioning about the strategy developed “in order to identify the remains found in the tomb of Perus that were not sent for identification to the ICMP”, imprecision is registered regarding the number of politically disappeared persons sought in the clandestine ditch of Perus. The sets of bones exhumed there are not all alleged victims of the military regime. The deaths of people buried in the site occurred for different causes and in varied contexts. It was found, for example, early on during the analyses, that, possibly, a significant number of bones corresponded to bodies of children who died due to an outbreak of meningitis occurred in the 1970s, in São Paulo. These bones were reinterred at the time of their discovery. Only the bones that could belong, due to their anatomical characteristics, to the politically disappeared persons being searched were separated for analysis.

10. After a thorough analysis of the set of the Brazilian politically disappeared, 41 persons were identified with some possibility, even if remote, to be found in Perus. It should be noted that this is only a possibility, because the probability of finding one or another individual varies enormously, depending on the personal trajectory of each one, at the time of disappearance. Efforts to identify politically disappeared persons among the bone remains exhumed from Perus follow internationally recognized scientific protocols and have not suffered change.

11. Regarding the sending of samples for analysis of the ICMP, the timetable remains unchanged, as the relationship between that institution and the Union. It should also be noted that the president of the CEMDP and the scientific coordinator of the Commission were, in December 2019, at the entity’s headquarters in the Hague, with the purpose of negotiating details of the term that will expand the Letter of Agreement with the institution.

12. It is noteworthy, moreover, that about 750 genetic samples have already been sent to the ICMP. Only the boxes with mixtures of bone remains, which will comply with a specific technical protocol created with the support of the ICMP itself, have not yet been sent, due to the normal work schedule planned since the beginning of the partnership. No substantial change has occurred in this regard. Thus, all bone remains with the possibility of belonging to politically disappeared persons have been or will soon be forwarded to the ICMP.

13. As regards, finally, to the provision to the Working Group of information that the State has in their records on the disappearance and death of Fernando Santa Cruz, it is indicated that such information is included in the final report of the National Truth Commission (CNV), of December 10, 2014, and can be accessed through the “Memórias Reveladas” (Revealed Memories) website, from the National Archives (<http://cnv.memoriasreveladas.gov.br/>). It

should be noted details of the individual process before the CEMDP can only be made available upon due family consent, as they may contain intimate data.
