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Working Group on Arbitrary Detention

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Working Group on Arbitrary Detention

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*“No one shall be subjected to arbitrary arrest,
detention or exile.”*

Universal Declaration of Human Rights, article 9

Contents

| | |
|---|-----------|
| Introduction | 6 |
| I. What is the mandate and composition of the Working Group? | 8 |
| II. What criteria are used to determine whether deprivation of liberty is arbitrary? | 10 |
| A. Deprivation of liberty | 10 |
| B. Arbitrary deprivation of liberty | 11 |
| III. What are the relevant procedures? | 21 |
| A. Regular communications procedure, involving investigation of individual cases and resulting in the adoption and issuance of an opinion | 21 |
| B. Deliberations of the Working Group | 25 |
| C. Urgent action procedure | 28 |
| D. Country visits | 29 |
| IV. How does the Working Group report on its work? | 31 |
| V. How does the Working Group cooperate with other bodies? | 32 |
| A. Human rights protection mechanisms | 32 |
| B. Non-governmental organizations | 32 |
| Annexes | 33 |
| I. Key documents to consult | 33 |
| II. Contact the Working Group on Arbitrary Detention | 34 |
| III. Questionnaire to be completed by persons alleging arbitrary arrest or detention | 35 |
| IV. Working Group on Arbitrary Detention consent form | 44 |

Introduction¹

The Working Group on Arbitrary Detention is one of the special procedures of the Human Rights Council, which are a central element of the United Nations human rights machinery. The special procedures are independent human rights experts, or groups of experts, with mandates to report and advise on human rights from a [thematic](#) or [country-specific](#) perspective. The Working Group on Arbitrary Detention, comprising five experts, has the thematic mandate to investigate cases of detention alleged to be imposed arbitrarily or otherwise inconsistently with international human rights standards.

The Working Group was created in 1991 by the Commission on Human Rights.² The Human Rights Council, which was established in 2006 and replaced the Commission, has adopted the mandate of the Working Group and renewed it on a triennial basis since then.³ The Working Group must be differentiated from [treaty-based bodies](#), the legal basis for which is a human rights treaty (convention or covenant) and whose members are periodically elected at a meeting of the States parties to the treaty concerned, such as the Human Rights Committee or the Committee against Torture.

The origin of the Working Group is rooted in the realization that the prevalent practice of arbitrary detention is a global phenomenon that must be effectively addressed by the international community. All countries are confronted by the practice of arbitrary detention – it knows no boundaries. Thousands of persons are subjected to arbitrary detention each year, in a variety of circumstances including the following:

- They have exercised one of their fundamental rights guaranteed under international human rights instruments, such as their right to freedom of opinion and expression, their right to freedom of association or their right to leave and enter their own country

¹ This revised fact sheet is for information purposes only and should not be used as a substitute for the official texts of the Universal Declaration of Human Rights, the human rights treaties and the methods of work of the Working Group.

² Commission on Human Rights resolution 1235 (XLII) of 6 June 1967.

³ Human Rights Council decision 2006/102 and resolutions 6/4, 15/18, 24/7, 33/30, 42/22 and 51/8.

- Having been unable to benefit from the fundamental guarantees of the right to a fair trial, they have been imprisoned without an arrest warrant and without being charged or tried by an independent judicial authority or without access to a lawyer; detainees are sometimes held incommunicado for several months or years, or even indefinitely
- They remain in detention, in violation of national laws and procedures or even though the measure or punishment which has been applied to them has been carried out
- They are detained in administrative detention, which is a worrying practice that is growing in prevalence, notably with regard to migrants, including asylum seekers
- They have been deprived of liberty purely for reasons of discrimination on the basis of birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability⁴ or other status.

Given that detention in itself is not a violation of human rights, experts in international law have endeavoured to progressively define the limits beyond which detention, whether administrative or judicial, would become arbitrary. Through its work, the Working Group has built upon and contributed to that growing body of norms.

The present fact sheet is aimed at providing a variety of stakeholders, including legal practitioners, with an overview of the mandate, working methods and procedures of the Working Group on Arbitrary Detention and the specific criteria for the categories of arbitrary deprivation of liberty adopted by the Working Group that are applicable in its consideration of individual cases. The fact sheet also contains illustrative examples from the Working Group's jurisprudence.

⁴ With regard to the commitment of persons with disabilities, the Working Group has adapted its definition of arbitrary detention in line with article 14 (1) (b) of the Convention of the Rights of Persons with Disabilities and the guidance set out by the Committee on the Rights of Persons with Disabilities, including its guidelines on the right to liberty and security of persons with disabilities (paras. 6–10 and 13–15). See also the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, principle 20 (in particular para. 38).

I. What is the mandate and composition of the Working Group?

The Human Rights Council has entrusted the Working Group with the following mandate:

- (a) To investigate cases of deprivation of liberty imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned; this is usually done through the regular communications procedure, resulting in the adoption and issuance of an opinion of the Working Group;
- (b) To seek and receive information from Governments and intergovernmental and non-governmental organizations and receive information from the individuals concerned, their families or their representatives;
- (c) To act on information submitted to its attention regarding alleged cases of arbitrary detention by sending urgent appeals and communications to the Governments concerned to clarify or bring their attention to these cases; this can be done through urgent appeals, allegation letters or other letters, in accordance with the [Manual of Operations of the Special Procedures of the Human Rights Council](#);
- (d) To conduct country visits, upon the invitation of Governments, in order to better understand the situations prevailing in countries and the underlying reasons for instances of arbitrary deprivation of liberty;
- (e) To formulate deliberations on issues of a general nature in order to assist States in preventing and guarding against the practice of arbitrary deprivation of liberty and to facilitate consideration of future cases;
- (f) To report annually to the Human Rights Council on its activities, findings, conclusions and recommendations.

The Working Group is the only non-treaty-based mechanism whose mandate expressly provides for the consideration of individual complaints aimed at qualifying whether a detention is arbitrary. This means that its

actions are based on the right of petition of individuals anywhere in the world. Because the Working Group is one of the Human Rights Council's special procedures, it can engage with any State, irrespective of what treaties that State has or has not ratified.

The Working Group is composed of five independent experts appointed by the Human Rights Council following consultations with, and a selection process conducted by, the Consultative Group of the Council. The experts must meet rigorous selection criteria, and the Council makes the appointments in keeping with the principle of equitable geographical representation. All members serve in their personal capacities, and not as representatives of their States of nationality. Members undertake to uphold the independence, efficiency, competence and integrity of the Working Group through probity, impartiality, honesty and good faith. They are not United Nations staff members and do not receive any remuneration or other benefits for their service, in line with the Code of Conduct for Special Procedure Mandate Holders of the Council. The independent status of the mandate holders is crucial for them to be able to fulfil their functions with impartiality. Their tenure is limited to a maximum of six years.

The mandate of the Working Group stipulates that it must carry out its tasks with discretion, objectivity and independence. Against this background, when a case under consideration concerns a country of which one of the Working Group members is a national, that member does not participate in the consideration of the case.

The Working Group holds three sessions per year, usually in April, August and November, each lasting from five to eight working days. At the end of its April session every year, the members of the Working Group elect the Bureau, comprising the Chair-Rapporteur and Vice-Chairs. The Working Group also appoints a focal point on reprisals from among its members.

The Working Group is provided with secretariat support from the Office of the United Nations High Commissioner for Human Rights. The working languages of the Working Group are English, French and Spanish.

II. What criteria are used to determine whether deprivation of liberty is arbitrary?

A. Deprivation of liberty

In Commission on Human Rights resolution 1991/42,⁵ by which the Council established the Working Group, the Commission did not explicitly define the term “detention”, which is at the core of the mandate of the Working Group. This has led to differing interpretations of the term, and the uncertainty has been fuelled by the fact that international instruments do not always use the same terminology; they may use terms such as: “arrest”,⁶ “apprehension”, “holding”, “detention”, “incarceration”, “prison”, “reclusion”, “custody” or “remand”.

For this reason, the Commission adopted resolution 1997/50 to clarify that the Working Group is entrusted with the task of investigating all cases involving deprivation of liberty imposed arbitrarily. Use of the term “deprivation of liberty” eliminates any differences in interpretation between the various terms. It was chosen because the objective entrusted to the Working Group relates to the protection of individuals against arbitrary deprivation of liberty in all its forms, and the mandate of the Working Group extends to deprivation of liberty before, during and after trial, as well as to deprivation of liberty in the absence of any kind of trial, referred to as “administrative detention”.

Deprivation of personal liberty occurs whenever a person is being held without his or her free consent. Although prisons and police stations remain the most common places where an individual may be deprived of his or her liberty, there are a number of situations in which an individual is not free to leave a given location at will and which raise the question of de facto deprivation of liberty.⁷ Such cases include confinement in a psychiatric institution, administrative holding of migrants, including asylum seekers,

⁵ See E/CN.4/RES/1991/42.

⁶ The term “arrest” refers to the initial act of apprehending a person, whereas “detention” means and includes any deprivation of liberty before, during and after trial, as well as deprivation of liberty in the absence of any kind of trial, the latter of which is referred to as “administrative detention”.

⁷ De facto detention is when an individual is in theory free to leave an establishment but in practice is unable to do so.

and deprivation of liberty in the context of public health emergencies.⁸ There are also forms of deprivation of liberty that are explicitly prohibited in international law, such as imprisonment for debt. The Working Group also regards measures such as house arrest, rehabilitation through labour or confinement of conscientious objectors to serving compulsory military service,⁹ when they are accompanied by serious restrictions on freedom of movement, as forms of deprivation of liberty. As the Working Group has stated, whether a person is deprived of liberty is a question of fact: if the person in question is unable to leave at will, the safeguards which are in place to guard against arbitrary detention must be observed.

There may be legitimate cases of deprivation of liberty, such as of convicted persons or of those accused of serious offences. In addition, the right to personal liberty may be limited during states of emergency, in accordance with article 4 of the International Covenant on Civil and Political Rights.¹⁰

B. Arbitrary deprivation of liberty

The question of what makes deprivation of liberty arbitrary is not clearly answered in international instruments. Article 9 of the Universal Declaration of Human Rights provides merely that “no one shall be subjected to arbitrary arrest, detention or exile”. Article 9 (1) of the International Covenant on Civil and Political Rights is not much clearer: “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

When determining the mandate of the Working Group, the Commission on Human Rights used a pragmatic criterion: while it did not define the term “arbitrary”, it considered as arbitrary those deprivations of liberty which for one reason or another are contrary to relevant international provisions

⁸ See the Working Group’s revised deliberation No. 5 (A/HRC/39/45, annex) and deliberations No. 7 (E/CN.4/2005/6, sect. II) and No. 11 (A/HRC/45/16, annex II) (see also sect. IV.B below).

⁹ See the Working Group’s deliberations No. 1 (E/CN.4/1993/24, sect. II) and No. 4 (E/CN.4/1993/24, sect. II).

¹⁰ Some safeguards and guarantees of articles 9 and 14 of the Covenant are non-derogable, even in states of emergency. See general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency of the Human Rights Committee. See also A/HRC/22/44, para. 48, and general comment No. 35 (2014) on liberty and security of person of the Human Rights Committee, paras. 65–66.

set out in the Universal Declaration of Human Rights or in the relevant international instruments ratified by States.¹¹ In contrast, the Commission considered that deprivation of liberty is not arbitrary if it results from a final decision taken by a domestic judicial instance and which is both in accordance with domestic law and in accordance with other relevant international standards set forth in the Universal Declaration of Human Rights and the relevant international instruments accepted by the State concerned.

To enable it to carry out its tasks using sufficiently precise criteria, the Working Group has adopted specific criteria applicable in the consideration of cases submitted to it, drawing on the relevant provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. According to the Working Group, deprivation of liberty is arbitrary if a case falls into one of the five categories set out below.

Category I

Category I applies when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty. This might be the case, for example, when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to the detainee. Instances of detention falling under category I may also concern cases in which an individual has been deprived of liberty in the absence of any legislative provision that would authorize such detention. This often involves the failure of the national authorities to invoke a legal basis for an arrest. It is not sufficient for there to be a national law authorizing the arrest in question; the authorities must invoke that national law, usually through notification of the reasons for the arrest and/or charges, the presentation of a duly issued arrest warrant and the regular judicial review of the lawfulness of the detention, to justify the particular instance of detention.

¹¹ Commission on Human Rights resolutions 1991/42 and 1997/50.

Opinion No. 4/2019 (extracts)

“Given this considerable body of findings in relation to the lèse-majesté provisions in article 112 of the Criminal Code and the provisions of article 14 of the Computer Crimes Act, the Working Group is convinced that Mr. Siraphop is being detained pursuant to legislation that expressly violates international human rights law. As a result, there is no legal basis for his detention. ... His deprivation of liberty is arbitrary under category I.”

“This is not the first time that the Working Group has found that detention pursuant to a law that is inconsistent with international human rights law lacks legal basis and is therefore arbitrary.” (See, for example, opinions Nos. 69/2018, para. 21; 40/2018, para. 45; and 43/2017, para. 34 (detention pursuant to a law that criminalized conscientious objection to military service)).

Opinion No. 14/2017 (extracts)

“The Working Group finds that the deprivation of liberty of Mr. Fonya is based on section 347 bis of the Penal Code, which criminalizes consensual same-sex relations. That provision violates the obligations of Cameroon under the Covenant to protect the right to privacy and to guarantee non-discrimination. This has been the position of United Nations human rights mechanisms since the 1994 decision by the Human Rights Committee in *Toonen v. Australia*. ... Since *Toonen*, the Working Group has repeatedly emphasized in its jurisprudence that deprivation of liberty on the basis of sexual orientation is arbitrary and prohibited under international law (see, for example, opinions Nos. 25/2009, 42/2008, 22/2006 and 7/2002).”

“The Working Group considers that section 347 bis, in itself, violates the obligations of Cameroon under articles 2, 7 and 12 of the Universal Declaration of Human Rights and articles 2, 17 and 26 of the Covenant. There is therefore no legal basis for Mr. Fonya’s deprivation of liberty, making it arbitrary according to category I.”

Category II

When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed under articles 7, 13, 14, 18, 19, 20 or 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 or 27 of the International Covenant on Civil and Political Rights, it falls under category II. The cases falling under this category are those in which detention is used in response to the legitimate exercise of human rights. This may involve arresting peaceful protesters for the mere exercise of their rights to freedom of opinion and expression, freedom of assembly or freedom of association or detaining people who are exercising their right to freedom of religion, conscientious objectors to military service or migrants, including when they are exercising their right to seek asylum and/or their freedom to leave their own country.

Opinion No. 29/2015 (extracts)

“The Working Group considers that Mr. Kim was deprived of liberty as a result of the peaceful exercise of his right to freedom of religion. Namely, Mr. Kim was arrested and convicted because of his involvement in the work of promoting Christianity in the Democratic People’s Republic of Korea and bringing religious texts to the country. ... The Working Group concludes that Mr. Kim has been deprived of liberty in violation of article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights. Thus, the deprivation of liberty of Mr. Kim falls within category II of the categories applicable to the consideration of cases submitted to the Working Group.”

Opinion No. 40/2018 (extracts)

“It is clear that the deprivation of liberty of Mr. Shin and Mr. Baek is the direct result of their genuinely held religious and conscientious beliefs as Jehovah’s Witnesses in refusing to enlist in military service. Accordingly, the Working Group finds that the detention of Mr. Shin and Mr. Baek violates the absolutely protected right to hold or adopt a religion or belief under article 18 of the Universal Declaration of Human Rights and article 18 (1) of the Covenant. Unlike the manifestation of religious belief, this absolutely protected right to hold or adopt a religion or belief is not subject to limitation under article 18 (3) of the Covenant.

In the view of the Working Group, there can be no limitation or possible justification under the Covenant for forcing a person to perform military service, as to do so would completely undermine the right to freedom of thought, conscience and religion in article 18 (1) of the Covenant.”

...

“The Working Group concludes that the deprivation of liberty of Mr. Shin and Mr. Baek is arbitrary under category II, and also falls within category I as it lacks legal basis.”

Category III

When the total or partial non-observance of the international norms relating to the right to a fair trial, as established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the State concerned, is of such gravity as to give the deprivation of liberty an arbitrary character, such cases fall within category III. In order to evaluate the arbitrary character, or otherwise, of cases of deprivation of liberty under category III, the Working Group considers, in addition to the general principles set out in the Universal Declaration of Human Rights, several fair trial and due process criteria drawn from the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and, for the States parties to the International Covenant on Civil and Political Rights, the criteria set out in particular in articles 9 and 14 thereof. If the Working Group finds that there have been violations of such due process rights, it then considers whether those violations, taken together, are of such gravity as to give the deprivation of liberty an arbitrary character, thereby falling under category III.

Opinion No. 8/2016 (extracts)

“There were numerous violations of the rights of the defence. First, Mr. Hagabimana did not receive the prompt legal assistance required in any criminal proceedings. Furthermore, his lawyers were not able to communicate with him or to have access to the case file in order to make a full assessment of the case and put up an adequate defence. It should be added, mindful of the pressure that the authorities and the circumstances could exert on the judges, that the lawyers were quickly banned from the courtroom in a trial in which the accused was said to be

literally defenceless against his jailors. This is a violation of the right to a fair trial, as set out in article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights, and the detention is accordingly arbitrary under category III.”

Opinion No. 18/2018 (extracts)

“The Working Group considers that the information provided by the source discloses several violations of Mr. Piskorski’s right to a fair trial. The Working Group notes that it has been two years since Mr. Piskorski was detained in May 2016 and he has been held in pretrial detention for that entire period. While the preparation of the case against Mr. Piskorski involves complex espionage charges, the Government has offered no explanation as to why this process has taken nearly two years. There is no apparent end in sight to the constant renewal of Mr. Piskorski’s pretrial detention and, although his detention is kept under regular review every three months, he is effectively being detained indefinitely. Given the extensive delay, the courts must reconsider alternatives to detention. The right to be tried within a reasonable time and without undue delay is one of the fair trial guarantees embodied in articles 10 and 11 (1) of the Universal Declaration of Human Rights and articles 9 (3) and 14 (3) (c) of the Covenant, and it has been violated in the present case. If Mr. Piskorski cannot be tried within a reasonable time, he is entitled to release under article 9 (3) of the Covenant. Prolonged pretrial detention may also be placing Mr. Piskorski’s right to be presumed innocent in jeopardy. The Working Group has emphasized that pretrial detention must be as short as possible because it constitutes a grave limitation on freedom of movement, which is a fundamental and universal human right.”

Category IV

When asylum seekers, migrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy, such cases fall into category IV. When considering cases under this category, the Working Group bears in mind the basic principle of international law that detention in the course of migration proceedings must be used only as a last resort and is permissible only for the shortest period of time in each individual case, with the grounds for detention clearly and exhaustively defined in national legislation. The Working Group examines whether the legality of a detention is open for challenge before a court within fixed time limits. Migrants in an irregular situation should not be qualified or treated as criminals. Detaining children because of their parents' migration status is always in violation of the principle of the best interests of the child and will always constitute a violation of the rights of the child.¹²

Opinion No. 21/2018 (extracts)

“The Working Group also recalls the numerous findings by the Human Rights Committee where the application of mandatory immigration detention in Australia and the impossibility of challenging such detention has been found to be in breach of article 9 (1) of the Covenant. Moreover, as the Working Group notes in its revised deliberation No. 5, detention in migration setting must be exceptional and, in order to ensure this, alternatives to detention must be sought. In the case of Mr. Hamedani, it is clear to the Working Group that there was never any consideration of alternatives to detention, which is a further breach of article 9 of the Covenant.

The Working Group thus concludes that Mr. Hamedani has been denied the right to challenge the continued legality of his detention in breach of article 9 of the Covenant and that his detention is therefore arbitrary, falling under category IV.”

¹² See the Working Group's revised deliberation No. 5. See also the joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, para. 5; and general comment No. 5 (2021) on migrants' rights to liberty and freedom from arbitrary detention and their connection with other human rights of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Category V

When the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation or disability or other status, and is aimed at or can result in ignoring the equality of human rights, it falls within category V. The Working Group continues to receive communications concerning deprivation of liberty on discriminatory grounds. It has adopted several opinions in which it found that the deprivation of liberty was arbitrary because it had resulted from the violation of the right to equal protection of the law and freedom from discrimination under article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant (category II) and/or it had constituted a violation of international law on prohibited grounds of discrimination (category V).

The Working Group has identified the deprivation of liberty on discriminatory grounds as an emerging trend and will continue to refine its jurisprudence in that area, including by conducting further analysis to clarify the distinction between the arbitrary deprivation of liberty under categories II and V, as enumerated in its methods of work.

Opinion No. 81/2020 (extracts)

“The Working Group considers that Mr. Ho was targeted because of such peaceful activities as joining with other environmental activists and organizations in criticizing the State’s response to the chemical spill at the Formosa Ha Tinh Steel Company factory in 2016. As the Working Group has previously observed, there appears to be a pattern in Viet Nam of detaining activists who have attempted to raise awareness about the environmental disaster at the Formosa Ha Tinh Steel Company factory. Moreover, in the discussion above concerning category II, the Working Group established that Mr. Ho’s detention resulted from the peaceful exercise of his rights under international law. When a detention results from the active exercise of civil and political rights, there is a strong presumption that the detention also constitutes a violation of international law on the grounds of discrimination based on political or other views.

The Working Group finds that Mr. Ho was deprived of his liberty on discriminatory grounds, owing to his status as a human rights defender,

and on the basis of his political or other opinion in seeking to hold the authorities to account for their actions. His deprivation of liberty was in violation of articles 2 and 7 of the Universal Declaration of Human Rights and articles 2 (1) and 26 of the Covenant and falls within category V. The Working Group refers the present case to the Special Rapporteur on the situation of human rights defenders.”

Opinion No. 15/2018 (extracts)

“The Working Group is convinced that the arrest and detention were directed against Mr. Ebalé for being an artist who opposes the regime, internationally recognized by his peers for his satirical caricatures. In this capacity, he also has the status of a defender of freedom of expression and political opinion in the social context of Equatorial Guinea. The Group has already concluded that being a human rights activist is a status protected under article 26 of the Covenant. The Working Group recalls that international law requires States to take all necessary measures to ensure the protection by the competent authorities of everyone against threats, pressure and arbitrary actions taken against them on the basis of the right to promote human rights. Consequently, the Working Group concludes that Mr. Ebalé has been discriminated against because of his political views and his criticism of the Government and of the ruling political party, in violation of article 26 of the Covenant and article 8 of the Universal Declaration of Human Rights. His arrest and detention are thus arbitrary under category V.”

The Working Group frequently receives communications requesting it to declare a deprivation of liberty as “unfair”, or to take a view on the value of evidence produced during a trial. Those are areas which fall outside the Working Group’s remit. It is not for the Working Group to evaluate the facts and evidence in a particular case or to substitute itself for domestic appellate tribunals.

Similarly, it is not for the Working Group to examine complaints about the disappearance of individuals,¹³ alleged torture or inhuman conditions

¹³ According to the joint study on global practices in relation to secret detention in the context of countering terrorism, every instance of secret detention also amounts to a case of enforced disappearance, and the Working Group has classified secret detention as being per se arbitrary, falling within category I. A/HRC/13/42, paras. 20 and 28.

of detention. If such human rights violations occur, the Working Group will refer the matter to the competent body, when appropriate, such as the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment or the Working Group on Enforced or Involuntary Disappearances. However, if, in the view of the Working Group on Arbitrary Detention, the conditions of detention or treatment of the detained person inhibit the right to a fair trial, in particular the right to prepare for one's defence, or to habeas corpus, then it falls within the mandate of the Working Group to consider the facts submitted to it.

III. What are the relevant procedures?

A. Regular communications procedure, involving investigation of individual cases and resulting in the adoption and issuance of an opinion

Stage 1: Bringing the matter to the attention of the Working Group

The Working Group's involvement is generally triggered through written submissions sent to it by the individuals directly concerned, their families, their representatives or civil society organizations, although it may also receive submissions from Governments, intergovernmental organizations and national institutions for the promotion and protection of human rights. All those making such written submissions to the Working Group are referred to as "sources". The Working Group requires the explicit consent of the alleged victim or his or her family or legal representatives in order to proceed with the examination of a submission. The latter two options are of particular importance if the alleged victim is incommunicado.

The Working Group has prepared a model questionnaire to facilitate the task of making submissions (see annex III). The use of the questionnaire is not obligatory, and failure to use it does not result in the inadmissibility of a submission. Unlike other treaty-based bodies or international or regional courts, the Working Group does not require that local remedies be exhausted in order for a submission to be admissible. The Working Group does require, however, that submissions not exceed 20 pages; any material exceeding that limit, including annexes, may not be taken into account by the Working Group in its consideration of the submission.

The Working Group will acknowledge receipt of a submission by automated response, but it will not provide any further information on the progress of its consideration.

In its resolution 1993/36, the Commission on Human Rights authorized the Working Group to take up cases on its own initiative when sufficiently substantiated allegations of arbitrary deprivation of liberty are brought to its attention. The Working Group retains that mandate.

Stage 2: Offering the Government an opportunity to refute the allegations

The Working Group attaches great importance to the adversarial character of its procedure. Consequently, a summary of the submission is forwarded to the Government concerned through diplomatic channels. The Government is invited to communicate to the Working Group its comments and observations on the allegations made, both as regards the facts and the applicable legislation and concerning the progress and outcome of any investigations that may have been ordered, within 60 days. The reply must not exceed 20 pages in total, including annexes. If the Government requires an extension of the time limit, it must make a request to the Working Group before the set deadline and inform it of the reasons for the request. The Working Group may grant a further period of a maximum of one month in which to reply. However, if the reply is not submitted within the time limit, the Working Group may render an opinion on the basis of all the information it has obtained.

The Working Group, whose terms of reference require it to discharge its duties with discretion, does not reveal the identity of the source either to the Government to which it transmits the substance of the allegations made in the submission or to the public, once it has concluded its procedure through the issuance of an opinion or by filing a case.

Stage 3: Offering the source an opportunity to make comments on the Government's response

A reply sent by the Government concerned to the Working Group is transmitted to the source for any additional comments.

If the Government has not communicated its response within the above-mentioned 60-day time frame, or by any extended deadline, the Working Group may take a position on the case on the basis of all the information available to it.

Stage 4: Opinion issued by the Working Group

In the light of the information collected under the adversarial procedure, the Working Group adopts one of the following measures in private session:

- (a) If the Working Group decides that the arbitrary nature of the deprivation of liberty is established, it renders an opinion to that effect and makes recommendations to the Government concerned;

- (b) If the Working Group considers that the case is not one of arbitrary deprivation of liberty, it renders an opinion to that effect; the Working Group can also make recommendations in such a case, if it considers it necessary;
- (c) If the person has been released, for whatever reason, following the reference of the case to the Working Group, the case is filed; the Working Group, however, reserves the right to render an opinion, on a case-by-case basis, on whether or not the deprivation of liberty was arbitrary, notwithstanding the release of the person concerned;
- (d) If the Working Group considers that further information is required from the Government or the source, it may keep the case pending until that information is received.

The opinion, together with the recommendations of the Working Group, is sent to the Government.¹⁴ The opinion is also conveyed to the source, 48 hours after that notification. An advance edited version of the opinion is published online once available.

The opinions rendered are brought to the attention of the Human Rights Council in the annual report of the Working Group, which is usually issued in September.

The opinions of the Working Group are available on its webpage.¹⁵

Stage 5: Follow-up

In 2016, the Working Group introduced a follow-up procedure. All opinions adopted by the Working Group in which it concludes that the deprivation of liberty is arbitrary now contain an overview of the follow-up procedure in their final paragraphs. Under the follow-up procedure, the Working Group requests the Government concerned and the source to respond within six months of the date of transmittal of the opinion to each party with information about the steps taken by the Government to implement the opinion. That includes whether the victim has been released, reparations and compensation given to the victim and the steps taken to ensure non-repetition of the violation. The Working Group also welcomes information

¹⁴ See deliberation No. 10 (A/HRC/45/16, annex I), in which the Working Group describes the various forms of reparations to which victims of arbitrary deprivation of liberty are entitled.

¹⁵ In 2021, the Working Group adopted 85 opinions concerning the detention of 174 persons in 42 countries, and in 2020, it adopted 92 opinions concerning the detention of 221 persons in 47 countries.

on the implementation of the suggested measures from other parties, such as civil society organizations.

The Working Group, in cooperation with the Human Rights Council and other United Nations bodies, has been striving to find the means that would lead not only to the release of those whose detention has been declared by the Working Group to be arbitrary, but also to the adoption by the States concerned of legislative and executive measures which would prevent and protect against arbitrary detention.

Use of opinions of the Working Group in domestic proceedings

The Working Group has been highlighting the importance of national judiciaries in implementing the recommendations made in its opinions, in particular in ordering the release of and compensation for detained individuals. For instance, the opinions of the Working Group were taken into account by national courts in the conditional release of two detained individuals in Turkey (see minutes of judicial hearing of the Istanbul 37th Criminal Court, 3 July 2018, citing opinion No. 11/2018) and in the context of a public hearing before the Supreme Court of the Republic of Korea on conscientious objection to military service and its status under international human rights law (see transcript of closing statements made in a public hearing held by the Supreme Court of the Republic of Korea on 30 August 2018, citing opinion No. 40/2018).

In the latter case, the Government informed the Working Group that, in November 2018, the Supreme Court had reversed its jurisprudence, under which the punishment of conscientious objectors had previously been considered as necessary to public safety, and that that change could result in detained objectors being eligible to file a claim for compensation (see opinion No. 69/2018, para. 15. See also the Government's [follow-up information](#)). While the use of the opinions issued by the Working Group in domestic proceedings has had a positive impact in some cases, there is scope for greater use to be made of the opinions in national courts.

B. Deliberations of the Working Group

In addition to its work on individual cases, the Working Group has the mandate to formulate what it refers to as “deliberations” on matters of a general nature, to assist States in preventing and addressing cases of arbitrary deprivation of liberty. The deliberations are a means of setting out a position of principle in order to develop a consistent set of precedents on questions which require special consideration.

For example, the Working Group has adopted a number of deliberations defining the criteria on the basis of which deprivation of liberty linked with certain situations may become arbitrary, including house arrest (deliberation No. 1), rehabilitation through labour (deliberation No. 4), detention of migrants (revised deliberation No. 5) and psychiatric detention (deliberation No. 7).

Exceptionality of detention in the course of migration proceedings **Revised deliberation No. 5 (extracts)**

“Any form of administrative detention or custody in the context of migration must be applied as an exceptional measure of last resort, for the shortest period and only if justified by a legitimate purpose, such as documenting entry and recording their claims or initial verification of identity if in doubt.

Any form of detention, including detention in the course of migration proceedings, must be ordered and approved by a judge or other judicial authority. Anyone detained in the course of migration proceedings must be brought promptly before a judicial authority, before which they should have access to automatic, regular periodic reviews of their detention to ensure that it remains necessary, proportional, lawful and non-arbitrary. This does not exclude their right to bring proceedings before a court to challenge the lawfulness or arbitrariness of their detention.”

The Working Group formulated a deliberation in which it looked more broadly at the definition and scope of arbitrary deprivation of liberty under customary international law (deliberation No. 9). The deliberation was the result of wide-ranging consultations and, in formulating it, the Working Group relied on a great many sources to offer clarifications pertaining to the qualification of particular situations as a deprivation of

liberty and the notion of “arbitrary” and its constitutive elements. Other questions addressed in deliberations include the issue of reparations for arbitrary deprivation of liberty (deliberation No. 10) and the prevention of arbitrary deprivation of liberty in the context of public health emergencies (deliberation No. 11).

Notion of “arbitrary” and its constituent elements under customary international law

Deliberation No. 9 (extracts)

“The notion of ‘arbitrary’ *stricto sensu* includes both the requirement that a particular form of deprivation of liberty is taken in accordance with the applicable law and procedure and that it is proportional to the aim sought, reasonable and necessary. The drafting history of article 9 of the International Covenant on Civil and Political Rights ‘confirms that “arbitrariness” is not to be equated with “against the law”, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.’”

...

“In conclusion and in the light of the foregoing, the Working Group on Arbitrary Detention finds that all forms of arbitrary deprivation of liberty, including the five categories of arbitrary deprivation of liberty ... are prohibited under customary international law. The Working Group also concludes that arbitrary deprivation of liberty constitutes a peremptory or *jus cogens* norm.”

Reparations for arbitrary deprivation of liberty

Deliberation No. 10 (extracts)

“Faced with numerous violations of the absolute prohibition of arbitrary deprivation of liberty around the world, the Working Group reiterates the obligation of States to provide effective judicial, administrative and other remedies for victims of violations of international human rights law. Moreover, in instances where it has been established that an individual has been arbitrarily deprived of liberty, States have an obligation to provide adequate, effective and prompt reparations. Such reparations must cover all aspects of the deprivation of liberty by a State, including acts or omissions by its public officers or by individuals acting on its behalf

or with its authorization, support or acquiescence in any territory under a State's jurisdiction or wherever the State exercises effective control.

The Working Group recalls that all victims of arbitrary deprivation of liberty are entitled to an enforceable right before the competent national authority to prompt and adequate reparations. Reparations should be proportional to the gravity of the violations and the harm suffered.”

Prevention of arbitrary deprivation of liberty in the context of public health emergencies

Deliberation No. 11 (extracts)

“The Working Group recalls that, in instances where a public health emergency has required States to resort to the introduction of an emergency regime, all States should act in accordance with their obligations under international law and with their constitutional and other provisions of law governing the proclamation of a state of emergency and the exercise of emergency powers. All such measures must be publicly declared, be strictly proportionate to the threat to the public caused by the emergency, be the least intrusive means to protect public health and be imposed only for the time required to combat the emergency.”

...

“The aim of the ... deliberation is to set out a guidance to avoid cases of arbitrary deprivation of liberty in the implementation of public health emergency measures.”

In the context of the tenth anniversary of the adoption of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Working Group formulated its deliberation No. 12 on women deprived of their liberty. In the comprehensive deliberation, the Working Group considered the gender-specific dimensions of arbitrary detention and provided guidance to assist States and other stakeholders to prevent and address the arbitrary detention of women in the criminal justice system, immigration detention, administrative detention, health-care situations and certain private settings.

Women deprived of their liberty

Deliberation No. 12 (extracts)

“Not all women experience deprivation of liberty in the same manner, and it is therefore necessary to consider the disparate experience of women who already experience disadvantage, including women with disabilities, older women, indigenous women, women affected by extreme poverty, homeless women, women sex workers, women who use drugs, non-national women, including migrants, asylum seekers and refugees, lesbian, bisexual and transgender women, gender-diverse and intersex persons, women human rights defenders and activists and women belonging to national or ethnic, cultural, religious or linguistic minority groups. In particular, the Working Group recalls that women who experience multiple and intersecting forms of discrimination are at higher risk of being deprived of their liberty.”

All of the deliberations of the Working Group are available on its [web page](#).¹⁶ Individuals intending to submit an individual complaint may wish to consult them to ascertain the position of the Working Group on matters of relevance to their case.

C. Urgent action procedure

Like the other special procedures, the Working Group has developed an urgent action procedure for time-sensitive cases in which there are sufficiently reliable allegations that a person may be detained arbitrarily and that the continuation of the detention may constitute a serious danger to that person’s health or life. Even when no such threat is alleged to exist, the Working Group may still determine that there are particular circumstances that warrant urgent action.

When the Working Group receives a submission that falls within the remit of the urgent action procedure, it will send a communication by the most rapid channel available to the Government concerned to request that it take appropriate measures to ensure the detained person’s right to life, health, safety and physical and mental integrity. Such communications are often sent jointly with those of other special procedure mandate holders.

Such requests are made on a purely humanitarian basis and do not indicate

¹⁶ See www.ohchr.org/EN/Issues/Detention/Pages/Deliberations.aspx.

a prejudgment in any way by the Working Group on the merits of the case concerned. After having transmitted an urgent appeal or an allegation letter to a Government, the Working Group may take up the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not (see sect. IV.A above).

The urgent action procedure is initially confidential, in order to facilitate engagement with the Government concerned. However, the urgent appeal or allegation letter sent to a Government is made public after 60 days. Subsequently, basic information on the urgent action letters and allegation letters is published in a report of the Human Rights Council, and the letters are published in full in the special procedures communications database.

D. Country visits

Country visits constitute an opportunity for the Working Group to engage in direct dialogue with the Government concerned and with a variety of actors, with the aim of better understanding the situation prevailing in that country and the underlying reasons for instances of arbitrary detention.

During country visits, the Working Group conducts meetings with various actors, including political and judicial authorities, prosecutors, lawyers, prison officials, medical staff at various facilities, detainees and national human rights institutions, and with representatives of civil society, including non-governmental organizations. The Working Group also visits places of detention in their various forms, including penitentiaries, prisons, police stations, detention centres for migrants and psychiatric hospitals. The dialogue conducted during such visits provides the Working Group with a better understanding of the country's social, political and historical context and its practices related to detention. Such visits bring about a spirit of cooperation between the country visited and the Working Group. They take place on the basis of an invitation from the Government concerned, which is why the Human Rights Council has on numerous occasions encouraged Governments to invite the Working Group to their countries to enable the Working Group to discharge its mandate even more effectively.

At the conclusion of a visit, the Working Group transmits its preliminary findings to the Government, which are shared with the authorities and subsequently made public at a press conference. A full report on the visit, including a set of recommendations, is submitted together with the annual report of the Working Group to the Human Rights Council (see sect. V below).

The Working Group may also undertake follow-up visits after the initial country visit. Follow-up visits are usually carried out between 2 and 5 years after the country visit and are focused predominantly, but not exclusively, on the implementation of the recommendations of the Working Group contained in its report on the initial country visit.

In principle, the Working Group does not visit countries where the Human Right Council has opted to create a special procedure to address the situation in that country specifically, such as a special rapporteur or similar mechanism, unless the mandate holder requests or agrees that the Working Group should do so.

IV. How does the Working Group report on its work?

The Working Group reports annually to the Human Rights Council on its activities. The annual report includes the following elements:

- Opinions adopted on individual cases
- Reports on country visits
- Thematic issues
- Conclusions
- Recommendations

The annual report includes basic information on the opinions adopted, as well as follow-up information received, while the full text of all opinions can be found on the website of the Working Group and by using its online searchable [database](#).

The thematic issues section of the annual report provides an opportunity for the Working Group to address subjects of relevance to its work. Thematic issues have included the use of the Working Group's opinions in domestic proceedings, the importance of consular assistance and diplomatic protection for persons deprived of liberty, abuse of a state of emergency, criminal legislation which fails to define criminal offences with sufficient precision, excessive recourse to military courts, the absence of an independent judiciary or bar association, violations of the right to freedom of opinion and expression, detention in the context of prevention of drug abuse, secret detention, arbitrary detention and customary international law, women deprived of their liberty, conscientious objection to military service, deprivation of liberty on discriminatory grounds and irregular forms of deprivation of liberty. The Working Group closes its annual report with a set of conclusions and specific recommendations for States.

V. How does the Working Group cooperate with other bodies?

A. Human rights protection mechanisms

There are multiple mechanisms for the protection of human rights, established either through resolutions, such as thematic or country-specific special procedures, or through treaties or conventions, such as the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee on the Rights of the Child, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of Persons with Disabilities. That has made it necessary to develop rules for coordination, to prevent duplication in the consideration of cases. These rules have been drafted in accordance with the principle under which two bodies may not simultaneously consider a single case involving the same persons, subject matter and course of action.

In order to avoid such duplication, as soon as a case is brought before the Working Group, the secretariat confirms whether it falls under the Working Group's mandate and, if it does not, the case is forwarded to the appropriate special procedure mechanism.

In contrast, when the alleged violation centres around the lawfulness of detention, the Working Group will act in accordance with its mandate and with paragraph 33 of its methods of work.

B. Non-governmental organizations

The Working Group regularly cooperates with non-governmental organizations (NGOs) operating at the international, regional and national levels, which are its main sources of information. In that context, the Working Group periodically meets with representatives of NGOs that submit individual cases and those that submit information of a general nature, in order to consider ways of enhancing mutual cooperation. The Working Group devotes time to meeting with civil society organizations during its country visits and welcomes the receipt of reports from NGOs in advance of its visits, which may be sent to the Working Group via email (see annex II).

Annexes

Annex I. Key documents to consult

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Convention relating to the Status of Refugees
- Protocol relating to the Status of Refugees
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Rights of the Child
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Convention on the Rights of Persons with Disabilities
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)
- United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court

Annex II. Contact the Working Group on Arbitrary Detention

Email:

Hrc-wg-ad@un.org

Address:

Working Group on Arbitrary Detention
c/o Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
8-14 Avenue de la Paix
1211 Geneva 10
Switzerland

Phone:

+41 22 917 9220

Consult the Working Group's website (www.ohchr.org/en/special-procedures/wg-arbitrary-detention) to access:

- Questionnaire (to facilitate bringing cases before the Working Group)
- Consent form
- Methods of work of the Working Group
- Terms of reference for country visits
- Information about the composition of the Working Group

Annex III. Questionnaire to be completed by persons alleging arbitrary arrest or detention

The questionnaire provides guidance for those wishing to submit allegations of arbitrary arrest or detention worldwide.

The submission should not exceed 20 pages¹ and it should be completed in English, French or Spanish.

Electronic submissions are encouraged, where possible.²

Read the fact sheet thoroughly before filling in the questionnaire.

I. IDENTITY OF THE ALLEGED VICTIM OF ARBITRARY DETENTION

1. Family name(s):

.....

2. Given name(s):

.....

3. Gender:

.....

¹ Although copies of documents that prove the arbitrary nature of the arrest or detention, explain the specific circumstances of the case or provide other relevant information may be attached to the questionnaire, please note that any additional material, exceeding the 20-page limit (including annexes) might not be taken into account by the Working Group.

² This questionnaire should be sent to the Working Group on Arbitrary Detention, Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva, 8–14 Avenue de la Paix, 1211 Geneva 10, Switzerland; email: hrc-wg-ad@un.org; fax: +41 (0) 22 917 9008. If the submission concerns more than one individual, please include all relevant information regarding all individuals in the questionnaire, within the 20-page limit.

4. Date of birth or age at time of detention:

.....

5. Nationality(ies):

.....

6. Identity document number and issuing authority:

.....

.....

7. Profession and/or activity (if considered relevant to the arrest/
detention):

.....

.....

8. Address of usual residence:

.....

.....

II. DETAILS OF THE ARREST OR DETENTION

Please give a brief description of the events, in chronological order (bearing in mind that further details are requested in sections III and IV).

1. Date of arrest or detention:

.....

2. Place of arrest or detention (provide as much detail as possible):

.....

.....

.....

.....

3. Explain the circumstances of the arrest or detention, in chronological order, including the name of the forces that carried it out or are believed to have carried it out (specify, for example, the number of officers making the arrest and whether they were wearing uniforms and/or had identified themselves):

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4. Did the forces making the arrest produce an arrest warrant or give any explanation or refer to any other decision by a public authority?

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5. Which authority issued the warrant or decision? Was it a judicial authority?

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- 6. Was the reason for the arrest or detention given at the time of the arrest or detention? If so, what reason was given? If a reason was not given at this time, when was the individual first informed of the reason for the arrest or detention? Please provide as much detail as possible:

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- 7. Which national law (if known) was cited as the legal basis for the arrest or detention?

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- 8. Duration of detention (if not known, approximate duration):

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- 9. Which authority is responsible for detaining the person?

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10. Place(s) of deprivation of liberty³ (indicate any transfers, date of transfer and current place of detention, if known):

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11. Has the detainee, or anyone else on the detainee's behalf, been able to challenge the detention domestically? Which domestic remedies are available, and which have been used? How effective have such remedies been?⁴

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III. FURTHER DETAILS CONCERNING THE ARREST OR DETENTION

1. Please provide further details about the arrest or detention, including information regarding:
- Access to a lawyer of one's own choosing from the outset of the deprivation of liberty and prior to questioning or rendering a declaration; date of first access, ability to communicate privately, presence during interrogations, hearings and proceedings

³ For example, police stations, prisons, pretrial detention centres, administrative detention centres for migrants, unofficial places of detention, psychiatric hospitals, social care homes or airport transit zones.

⁴ The methods of work of the Working Group do not require exhaustion of all available domestic remedies for the communication to be admissible for consideration by the Working Group.

- Conditions of detention and treatment (including solitary confinement and/or ill-treatment), and where the person was held and is currently held
- Access to family and contact with the outside world (ability to communicate with relatives, date of first family visit, frequency of family visits)
- Access to consular assistance (in the case of persons holding dual nationality)
- Health concerns, and access to health care in detention

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2. Please describe any legal proceedings since the individual's arrest or detention, including:
- The date of their first appearance before a judge or other officer authorized by law to exercise judicial power; whether the detainee was allowed to appear in person; the dates of subsequent appearances to review the detention
 - Whether the pretrial detention was renewed; if so, provide the date of the renewal and the authority that ordered it
 - Whether the detainee was able to challenge the lawfulness of their detention (provide details)
 - The date of the first court hearing (and of any subsequent hearings), and a description of the proceedings (such as whether it was a public hearing; whether the individual detained was present in the courtroom; whether the individual's legal counsel was present; whether the detainee was able to confer with their lawyer; the language in which the proceedings were conducted, and whether interpretation services were provided; whether the defence was able to call and examine witnesses, and was given

equal opportunity to present the case under conditions that did not place the individual at a disadvantage vis-à-vis the opponent)

- Details of any sentence imposed
- Details of the appeals process (whether the detainee was able to appeal and whether an appeal hearing has been held). Describe the circumstances of any hearings and the outcome.

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.....

IV. HOW DOES THIS AMOUNT TO ARBITRARY DETENTION?

Give the reasons why you consider the arrest and/or detention to be arbitrary. Please detail your reasons and analyse them as much as possible with reference to international human rights law and the categories of the Working Group. Specifically, provide details about:

- a) Whether the arrest or detention was authorized by the Constitution or domestic law, and whether you consider this to be compliant with international human rights law; explain your reasons;
- b) Whether the person was arrested or placed in detention because they had exercised the rights or freedoms guaranteed by international human rights law, as specified in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; specify the rights the person was exercising;
- c) Whether the international norms relating to the right to a fair trial were fully respected; if not, explain your reasoning;

- d) Whether the person – in the case of an asylum seeker, migrant or refugee subjected to prolonged administrative custody – was guaranteed the possibility of administrative or judicial review or remedy;
- e) Whether the individual was deprived of liberty owing to discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation or disability, or any other status leading towards or resulting in disregard for the equality of human rights.

.....

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.....

V. CONSENT OF THE ALLEGED VICTIM

In cases where allegations have not been submitted by the alleged victim, specific consent must be provided to allow the Working Group to proceed with consideration of the allegations. The **consent form** (also available in annex IV) should be filled out (note that it is not subject to the 20-page limit) and included in the submission.

Do you have the consent of the alleged victim(s)?

Yes

No

VI. DETAILS OF THE PERSON(S) SUBMITTING

Provide the full name and postal and electronic addresses of the person(s) submitting the information (including your telephone and/or fax number, if possible).

.....
.....
.....
.....

Date

Signature

Annex IV. Working Group on Arbitrary Detention consent form

By signing below,

I, [name]

hereby consent to / have obtained the consent for:

- (a) Having the full name of [insert name of alleged victim] mentioned in a letter to the Government(s) concerned;
- (b) Having the full name of [insert name of alleged victim] published in an official public opinion of the Working Group and named in a public report to the Human Rights Council.

Date

Signature

- If a case is submitted to the Working Group by anyone other than the victims or their families, such persons or organizations should provide the authorization given by the victims or their families to act on their behalf.
- All details concerning the persons submitting information to the Working Group, and any authorization provided by the victims or their families, will be considered confidential.

Human Rights Fact Sheets*

- No. 2 The International Bill of Human Rights (Rev.1)
- No. 3 Advisory Services and Technical Cooperation in the Field of Human Rights (Rev.1)
- No. 4 Combating Torture (Rev.1)
- No. 6 Enforced or Involuntary Disappearances (Rev.4)
- No. 7 Individual Complaint Procedures under the United Nations Human Rights Treaties (Rev.2)
- No. 9 Indigenous Peoples and the United Nations Human Rights System (Rev.2)
- No. 10 The Rights of the Child (Rev.1)
- No. 11 Extrajudicial, Summary or Arbitrary Executions (Rev.1)
- No. 12 The Committee on the Elimination of Racial Discrimination
- No. 13 International Humanitarian Law and Human Rights
- No. 14 Contemporary Forms of Slavery
- No. 15 Civil and Political Rights: the Human Rights Committee (Rev.1)
- No. 16 The Committee on Economic, Social and Cultural Rights (Rev.1)
- No. 17 The Committee against Torture
- No. 18 Minority Rights (Rev.1)
- No. 19 National Institutions for the Promotion and Protection of Human Rights
- No. 20 Human Rights and Refugees
- No. 21 The Right to Adequate Housing (Rev.1)
- No. 22 Discrimination against Women: The Convention and the Committee
- No. 23 Harmful Traditional Practices Affecting the Health of Women and Children

- No. 24 The International Convention on Migrant Workers and its Committee (Rev.1)
- No. 25 Forced Evictions (Rev.1)
- No. 26 The Working Group on Arbitrary Detention (Rev.1)
- No. 27 Seventeen Frequently Asked Questions about United Nations Special Rapporteurs
- No. 28 The Impact of Mercenary Activities on the Right of Peoples to Self-determination
- No. 29 Human Rights Defenders: Protecting the Right to Defend Human Rights
- No. 30 The United Nations Human Rights Treaty System (Rev.1)
- No. 31 The Right to Health
- No. 32 Human Rights, Terrorism and Counter-terrorism
- No. 33 Frequently Asked Questions on Economic, Social and Cultural Rights
- No. 34 The Right to Adequate Food
- No. 35 The Right to Water
- No. 36 Human Rights and Human Trafficking
- No. 37 Frequently Asked Questions on the Right to Development
- No. 38 Frequently Asked Questions on Human Rights and Climate Change

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* Fact sheets Nos. 1, 5 and 8 are no longer issued. All fact sheets are available online from www.ohchr.org.

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CH–1211 Geneva 10
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