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Thirty-seventh report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013)

I. Introduction

1. The present report, submitted pursuant to paragraph 4 of Security Council resolution 2107 (2013), covers developments pertaining to missing Kuwaiti and third-country nationals and missing Kuwaiti property, including the national archives, since my previous report, dated 19 January 2023 (S/2023/51).

II. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains

2. The United Nations Assistance Mission for Iraq (UNAMI) attended, in its observer capacity, the 124th meeting of the Technical Subcommittee of the Tripartite Commission, held in Baghdad on 19 March 2023. During the meeting, the members of the Technical Subcommittee provided updates on efforts to identify and explore potential burial sites. These efforts continued to rely on witness testimony, satellite imagery and field missions.

3. The International Committee of the Red Cross (ICRC) and the Ministry of Defence of Iraq continued to conduct joint analysis of aerial imagery provided by the United States of America and of commercial satellite imagery of the Samawah sites (Tall al-Shaykhiyah and Faydat al-Azayir). The Technical Subcommittee members agreed that further analysis of available aerial and satellite imagery was required prior to any invasive survey of these sites. Based on a proposal by Kuwait, ICRC will make additional requests to the United States for imagery of the Samawah sites for the period 1991–1992. ICRC will cross-check the images with those from the period 2014–2016 to narrow the scope of the search and identify the locations that could contain human remains. Kuwait noted that the provision of aerial and satellite imagery for the period 2014–2016 could help identify locations within the Tall al-Shaykhiyah site that had been improperly excavated by non-State actors during that period. Kuwait underlined that identifying these locations could help further narrow down the search area.

4. Regarding the naval base and other sites in Kuwait, based on the coordinates provided by the United States and the United Kingdom of Great Britain and Northern Ireland, Kuwait continued to search for aerial imagery of an alleged burial site near the naval base. In addition, the Army Historical Branch of the United Kingdom searched its archival material for information pertaining to the naval base and other



sites in Kuwait. The Branch concluded that all relevant documents had already been shared with the Tripartite Commission. The United States reiterated its commitment to supporting ongoing search efforts for relevant aerial imagery. Iraq will analyse the aerial images provided by the United States and the United Kingdom and share its views with Kuwait on the prioritization of sites to be re-explored. Kuwait emphasized its readiness to follow up on the outcome of such analysis.

5. The Technical Subcommittee discussed the ongoing efforts of Iraq to follow up on information provided previously by witnesses and to locate new witnesses who have relevant information regarding potential burial sites. Kuwait underlined the urgency of expediting the search efforts in Samawah (particularly Tall al-Shaykhiyah) and reiterated that efforts to approach the Governor of Muthanna for potential information and witnesses should continue. Regarding efforts to locate the main witness for the Karbala site, the Technical Subcommittee agreed that Iraq and ICRC should contact individuals who had previously worked with that witness.

6. The Ministry of Defence of Iraq continued its efforts to locate witnesses who might have relevant information regarding the Khamisiyah site, including a witness who had been previously reported to be in Sweden or in Jordan. Iraq invited a key witnesses to attend the 124th meeting of the Technical Subcommittee. This witness had previously provided information about the burial site, as well as about the witness believed to be in Sweden or Jordan. At the meeting, the witness reconfirmed his earlier account about bodies being buried in the area, and he noted that many potential witnesses had changed their identities and moved abroad for fear of retribution. The witness underlined the need for Iraq to continue providing guarantees and reassurances to potential witnesses who had been part of the former Iraqi regime and its security authorities that they could come forward without fear of retribution. The witness promised to continue his efforts to reach, through personal contacts, the witness believed to be in Sweden or Jordan. The witness also offered to revisit the Khamisiyah site to assist the Iraqi authorities in locating a possible area for exploration. As has been agreed upon at the 123rd meeting of the Technical Subcommittee, ICRC contacted an individual in Cairo who might have had contact with the witness believed to be in Sweden or in Jordan. This individual confirmed not having had any contact with or any other information about that witness's whereabouts.

7. Iraq continued to follow up on leads to identify witnesses with potential information regarding the Salman Pak site (the cemetery). The Ministry of Defence of Iraq followed up with the Mayoralty of Baghdad regarding historical records of the cemetery, as well as cemetery staff who might have relevant information about missing persons allegedly buried at the site. To date, those efforts have not produced any tangible results.

8. Regarding the Mosul site, Iraq continued to follow up with the witness who had come forward with information regarding potential burial sites, and it researched the archives of the Ministry of Defence. Iraq indicated that, based on the information that had been collected and its research, the mass grave in Mosul was not related to Kuwaiti missing persons or third-country nationals. Accordingly, the Technical Subcommittee members agreed to close this agenda item.

9. Iraq presented the results of the excavation that had occurred at the Mahawil site on 1 December 2022 and 23 January 2023. The experts from the Medico-Legal Directorate of the Ministry of Health of Iraq who had been present during the excavation determined that the recovered bone fragments were not human. The Technical Subcommittee members agreed that Iraq and ICRC would hold bilateral discussions on how to proceed with regard to this site.

10. The Medico-Legal Directorate completed the analysis of the genetic profiles of human remains that had been recovered from the area of Hawli, Najaf Governorate, in April 2022. The Directorate identified genetic profiles of 22 sets of human remains (13 women and 9 men). The Technical Subcommittee members agreed on a protocol for transferring these remains, namely, ICRC would receive the genetic profiles from Iraq and share them with Kuwait.
11. In response to feedback from ICRC on the topographic map of the Muradiyah site in Diyala Governorate, the Ministry of Defence of Iraq requested that the Iraqi State Commission on Surveys provide a new topographic map of the area. The Ministry indicated that it would update the Technical Subcommittee in that regard.
12. Iraq continued outreach efforts with regard to the identification of new witnesses. On 15 January, the Ministry of Defence broadcast a new call for witnesses to come forward. In addition, the Prime Minister issued a decree establishing a committee comprising members of the country's security agencies and chaired by the Human Rights Directorate in the Legal Department of the Ministry of Defence that is mandated to support activities to locate missing Kuwaitis and third-country nationals or their remains.
13. No further information emerged during the reporting period with respect to the case of a missing Saudi national who is listed on the official request lists of Kuwait and Saudi Arabia and is alleged to be alive in an Iraqi prison in Nasiriyah. The Technical Subcommittee agreed that the case should remain open and requested ICRC to re-examine the information previously provided by Iraq and Saudi Arabia.
14. ICRC provided an update regarding information reported in July 2021 by *The Sun*, a British newspaper, pertaining to an Iraqi national who had allegedly ordered the execution of 35 Kuwaitis in 1990. In a letter to ICRC, the United Kingdom authorities indicated that the execution may have occurred near a hospital in Jahra', Kuwait, and that construction vehicles, such as diggers, may have been used to create the mass grave in which the bodies were buried. The Technical Subcommittee agreed to continue to follow up on the matter.
15. On 6 February, the Deputy Special Representative for Political Affairs and Electoral Assistance of UNAMI met with the head of the ICRC delegation in Baghdad, with whom he discussed the progress that had been made in the search for missing Kuwaitis and third-country nationals or their remains, including ways to enhance cooperation with ICRC in that regard.
16. On 13 February, the Deputy Special Representative met with the Director of the Human Rights Directorate in the Legal Department of the Ministry of Defence. The discussion focused on developments related to the issue of missing Kuwaitis and third-country nationals and Kuwaiti property, including the national archives. The Director reiterated the Ministry's commitment to making further progress on that issue. The Deputy Special Representative commended the expanded efforts made by the Ministries of Defence and Foreign Affairs, including in relation to identifying new witnesses.
17. On 28 March, the Deputy Special Representative met with the Ambassador of Kuwait to Iraq. They discussed recent developments with respect to the file of missing Kuwaiti and third-country nationals and missing Kuwaiti property, including the national archives, as well as the provision of an inventory to help facilitate the identification and eventual return of missing Kuwaiti property.

III. Recent activities with regard to the return of Kuwaiti property

18. During the reporting period, there were no new developments regarding the return of Kuwaiti property, including the national archives.

IV. Observations

19. I commend all members of the tripartite mechanism, under the leadership of ICRC, for their persistent efforts in supporting this important humanitarian file. It is my hope that these efforts will continue to yield positive results regarding the identification of missing Kuwaitis and third-country nationals or their remains, as well as their repatriation or return.

20. Efforts to help narrow down the search areas that could contain human remains must continue with persistence and determination. I remain encouraged by the continued efforts of the Government of Iraq, specifically the Ministries of Defence and Foreign Affairs, assisted by ICRC, in following up on new witness information. I welcome the work to explore potential burial sites carried out by the Ministry of Defence of Iraq through field missions with the support of ICRC and through the provision of satellite and aerial imagery by members of the tripartite commission, which are essential to the search process. I hope the committee established by the Prime Minister of Iraq can effectively support efforts to advance this important humanitarian file.

21. I reiterate my call upon the Government of Iraq to continue its efforts to locate missing Kuwaiti property and to explore options to reinvigorate its search for the national archives.

22. My Special Representative for Iraq, the Deputy Special Representative for Political Affairs and Electoral Assistance of UNAMI and UNAMI staff remain fully committed to supporting the efforts of the Governments of Iraq and Kuwait, the tripartite commission and other partners to advance progress on this important mandate.
