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Implementation of paragraph 4 of Security Council resolution 2107 (2013)

Fortieth report of the Secretary-General

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 25 January 2024 (S/2024/95).

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

2. On 4 and 5 March 2024, the United Nations Assistance Mission for Iraq (UNAMI) attended, in its observer capacity, the 129th meeting of the Technical Subcommittee of the Tripartite Commission, which was held in Baghdad. At the meeting, the members of the Tripartite Commission provided updates on their efforts to identify and explore potential burial sites. Those efforts continued to rely on voluntary witness testimony, analysis of satellite and aerial imagery, and field missions.

3. During the reporting period, the International Committee of the Red Cross (ICRC) and Iraq continued to conduct joint analyses of available commercial satellite imagery and aerial imagery provided by the United States of America for the identification of four potential burial sites in Iraq, including in Samawah (Tall al-Shaykhiyah and Faydat Azayir), Karbala' and Khamisiyah. The United States continued to work on the request by ICRC for new aerial imagery for the sites in Iraq. Kuwait called upon the United States to expedite the search for such imagery, in particular for Tall al-Shaykhiyah, to narrow down the search area for sites of interest. The United States expressed its commitment to gather additional information on the potential burial sites, prioritizing Tall al-Shaykhiyah and Khamisiyah.

4. ICRC and Iraq continued to conduct joint analyses of available aerial imagery of four sites in Kuwait based on coordinates provided by the United States and the United Kingdom of Great Britain and Northern Ireland. During the 129th meeting of the Technical Subcommittee, the United States confirmed its ongoing efforts to provide further aerial imagery for these sites. ICRC continued to discuss with the United States the feasibility of further researching the archives of the United States on the basis of the provided coordinates, and the possibility of expanding the call for witnesses among



United States veterans. Kuwait requested that an update from the United States be provided on these efforts at the next meeting of the Technical Subcommittee.

5. Regarding the potential burial sites in Samawah (Tall al-Shaykhiyah), located in the Governorate of Muthanna, Iraq reported that the administrative measures, approved by the Prime Minister of Iraq, for the transfer of an officer to the Governorate to help to obtain the cooperation of a witness had yet to be implemented. As no field visit in the area had taken place since the previous meeting of the Technical Subcommittee, Iraq concurred with the proposal of Kuwait to set a time frame for the next steps, including future field visits, and expressed its intention to coordinate its activities with Kuwait and the other members of the Technical Subcommittee. In response to concerns expressed by Kuwait about possible unauthorized excavation activities that might compromise the integrity of the potential burial site in Tall al-Shaykhiyah, Iraq affirmed that the relevant authorities were responsible for protecting presumed burial sites. Iraq also agreed to notify the newly elected Governor of Muthanna about the importance of protecting possible burial sites. Kuwait and Iraq agreed on the critical importance of ensuring the cooperation of the former Governor of Muthanna regarding the provision of any pertinent information that he might have on the potential burial site, based on several testimonies that had been collected from him since 2019. Iraq indicated that it would continue to engage with the former Governor of Muthanna in that regard.

6. Iraq continued its efforts to locate potential witnesses for the Karbala' site among former security officers who might have information about potential detention and execution sites. Kuwait stated that the names and details of Iraqi personnel gathered from debriefings with released Kuwaiti prisoners of war had been provided to ICRC at the forty-second meeting of the Technical Subcommittee and that no further information was available. ICRC will follow up with Iraq on conducting a review of past correspondence to cross-check the information.

7. With regard to the Khamisiyah site, at the 129th meeting of the Technical Subcommittee, Iraq reported that its interministerial security committee had drawn up a list of former security officers who might have information on burial sites and was in the process of trying to locate them. Kuwait highlighted the need for the Government of Iraq to increase efforts to obtain information from other identified witnesses, which included public officials, regarding the Khamisiyah and Tall al-Shaykhiyah sites.

8. A witness, an Iraqi national, who had been engaging with the Technical Subcommittee since 2005 and had been reported as having changed his original statement, attended the 129th meeting of the Technical Subcommittee to provide additional testimony on the Khamisiyah site. In his testimony to the Technical Subcommittee, the witness emphasized his full cooperation at the direct request of the Prime Minister of Iraq. According to his testimony, he had assumed that another witness reported to be in Denmark had relevant information on the site but it later appeared that the witness in Denmark had become reluctant to disclose it. He indicated his readiness to assist with efforts to obtain the cooperation of the witness reported to be in Denmark, as well as any attempts to pursue contact with other possible witnesses. In his testimony, the witness also stated that he had been present during the reburial of the remains of missing persons in Khamisiyah and recalled the names of other witnesses who had been present with him. As at previous meetings of the Technical Subcommittee, he affirmed that he was certain that the remains of Kuwaiti nationals were present in the area near Ahwar al-Khamisiyah and another undisclosed location in Khamisiyah. The witness further expressed the belief that the Khamisiyah site had three or four mass graves that contained the remains of more than 100 Kuwaiti and third-country nationals.

9. Kuwait recalled the long history of engagement by the Tripartite mechanism with the witness and urged that all efforts be made to obtain his full cooperation, estimating that the remains of approximately 180 missing persons were buried in Khamisiyah. Kuwait also urged that the search for additional potential witnesses, especially those who were serving as public officials, be continued, reiterating that there would be no legal consequences for individuals who provided information on burial sites. Iraq reiterated that the Prime Minister was following the developments closely. Iraq agreed to follow up on the list of names of potential witnesses, including former security officers, and share the findings at the next meeting of the Technical Subcommittee.

10. From 22 to 25 January, the Ministry of Defence of Iraq conducted excavation works at the Mahawil site in area 1. No human remains or evidence thereof were found. Iraq stated that it would share the findings with the witness and arrange for another visit to the site.

11. Regarding the Muradiyah site in Diyala Governorate, Iraq is pursuing the possibility of producing a new topographic map, as earlier proposed by ICRC, by using a drone, with the support of the Iraqi air force and technical assistance from ICRC to gather more information on the site.

12. No further information emerged during the reporting period with respect to the case of a missing Saudi national alleged to have been held in Nasiriyah prison in Iraq. Saudi Arabia is still considering a proposal by Iraq to facilitate a visit by a witness to Nasiriyah prison. ICRC conducted a workshop for Saudi authorities, including border guards, in Riyadh on “Accompanying families of the missing”.

13. The United Kingdom stated that there had been no new developments regarding the case of an Iraqi national under investigation by the Metropolitan Police Service of London for having allegedly ordered the execution of 35 Kuwaitis in 1990, who were reportedly buried in the Jahra’ area in Kuwait. The case had been reported by The Sun newspaper. At the request of Kuwait, ICRC had made numerous unsuccessful attempts to contact a potential witness who might have information on the case and would continue to pursue contact with the witness.

14. During the reporting period, there were no further developments on the Salman Pak site (the cemetery). ICRC will present its technical recommendations to Iraq on how to proceed on this site. In addition, Iraq will continue to seek more credible information on the site from local authorities and witnesses.

15. On 11 February, the Ministry of Defence of Iraq, in the presence of ICRC and a witness, conducted a preliminary assessment of a presumed burial site in Tuwithah, Baghdad Governorate. The Ministry of Defence agreed to conduct its excavation activities in the location on the basis of ICRC technical recommendations aimed at protecting the environment in which the site is located. Iraq will provide its findings by the next meeting of the Technical Subcommittee.

16. In January, the Ministry of Defence of Iraq issued calls for witnesses through its official website and media networks using a text agreed upon with Kuwait. Iraq reiterated its commitment to provide financial rewards and immunity from prosecution to any person who could provide information on burial sites as part of its efforts to encourage potential witnesses to come forward.

17. With regard to the donation made by Kuwait to ICRC for the purpose of ascertaining the most appropriate technologies for the search for burial sites containing the remains of Kuwaiti and third-country nationals and for searches within identified sites in Iraq, ICRC indicated that the first step was the establishment of a database, followed by the determination of site-specific technology needs. Kuwait stressed the importance of exploring available technologies, in parallel to building the

database, emphasizing the importance of expertise alongside technology acquisition, citing past proposals for aerial imaging and satellite data analysis. Kuwait underscored the need for forensic expertise to ensure the effective utilization of technology.

18. In line with the road map for the implementation of the review project recommendations, prior to the 129th meeting of the Technical Subcommittee, technical consultations were held among the members on 3 March to discuss and finalize the standard operating procedure for guiding various stages of fieldwork activities. The final document was adopted by all members of the Technical Subcommittee.

19. As part of its capacity-building and transfer-of-knowledge efforts, ICRC announced that a preliminary investigation workshop for technical teams from Iraq and Kuwait would be held in Kuwait in May. Another investigation training session, including for members of the Technical Subcommittee, will be conducted in Cyprus in July by the Committee on Missing Persons in Cyprus, co-funded by UNAMI and ICRC.

20. On 23 January, the Deputy Special Representative for Political Affairs and Electoral Assistance of UNAMI met in Baghdad with senior officials of the Ministry of Interior to urge the prompt implementation of the Prime Minister's administrative measures relating to potential burial sites in Muthanna Governorate.

21. On 21 February, the Deputy Special Representative met in Baghdad with the Assistant Foreign Minister for Missing Persons and Prisoners of War Affairs of Kuwait and discussed a range of issues to speed up progress, including on the Muthanna and Khamisiyah burial sites. The Assistant Foreign Minister was visiting Iraq to meet relevant Iraqi officials to discuss obstacles in advancing the work on the file of missing Kuwaiti and third-country nationals.

22. On 4 and 5 March, the Deputy Special Representative participated in the 129th meeting of the Technical Subcommittee, held in Baghdad. He gave an update on the engagement of UNAMI with relevant officials to advance the work on missing persons.

23. On 10 March, the Deputy Special Representative met with the Head of the Legal Department and the Director of the Human Rights Directorate in the Legal Department of the Ministry of Defence of Iraq. The discussion was focused on the importance of making swift progress on the missing persons file, with UNAMI remaining ready to continue to provide support.

24. On 13 March, the Deputy Special Representative met with the Undersecretary for Multilateral and Legal Affairs at the Ministry of Foreign Affairs of Iraq and encouraged intensified efforts to make progress on the file of missing persons and Kuwaiti property, including the national archives.

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

25. During the reporting period, there were no new developments regarding the return of Kuwaiti property, including the national archives. During meetings with officials from Iraq and Kuwait, UNAMI renewed its proposal that the Iraq-Kuwait technical joint committee on missing Kuwaiti property, which had not been operational since 2014, should be reactivated.

IV. Observations

26. I commend the sustained commitment of the members of the Tripartite Commission, under the leadership of ICRC, in pursuing the search for and identification and return of remains of missing Kuwaiti and third-country nationals. I encourage the members of the Tripartite Commission to promptly share further aerial imagery in support of the search for potential burial sites.

27. I am encouraged by the commitment of the Government of Iraq, specifically the Ministries of Defence and Foreign Affairs, as directed by the Prime Minister, to continue to pursue witness testimony and carry out excavation and other activities to identify potential burial sites. The continued search for witnesses remains critical to progress in locating burial sites. This includes the sustained efforts to implement important initiatives by Iraq, such as the broadcasting of calls for witnesses to come forward and other measures to encourage witnesses to share information. I urge Iraq to intensify its efforts, in particular with regard to the presumed burial sites in Samawah and Khamisiyah, which are believed to contain the remains of a large number of missing persons.

28. I urge the Government of Iraq to take concrete steps and to invest further efforts to achieve tangible progress in locating and returning the remaining missing Kuwaiti property, including the national archives.

29. I thank ICRC for its leadership and assistance to the members of the Tripartite Commission, including its essential role in developing the standard operating procedure for fieldwork activities and the provision of technical training.

30. My Special Representative for Iraq and Head of UNAMI, my Deputy Special Representative for Political Affairs and Electoral Assistance and UNAMI staff are committed to continuing to support the efforts of the Governments of Iraq and Kuwait, the Tripartite Commission and other partners in advancing the work of this important mandate.
