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Office of the High Commissioner for Human Rights  
Palais des Nations  
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**Seong-Phil Hong**

Chair of the Working Group on Arbitrary Detention

**Agnes Callamard**

Special Rapporteur on extrajudicial, summary or arbitrary executions

**Fionnuala Ní Aoláin**

Special Rapporteur on the promotion and protection of human rights and  
fundamental freedoms while countering terrorism

**Nils Melzer**

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

**Saeed Mokbil**

Chair-Rapporteur of the Working Group on the use of mercenaries as a means of  
violating human rights and impeding the exercise of the right of peoples to self-  
determination

*Dear Mr Hong, Ms Callamard, Ms Ní Aoláin, Mr Melzer and Mr Mokbil,*

Thank you for your letter of 28 August 2018 to the Secretary of State for Foreign and  
Commonwealth Affairs regarding the risk of arbitrary deprivation of life and violations  
of other human rights of British nationals in Iraq. Our observations on the points raised  
in your letter are provided in the attached annex.

I hope the further detail set out in the annex addresses your concerns in regard to the  
allegations you received. The UK Government reiterates its strong support for the work  
of the Special Procedures of the Human Rights Council.

Yours sincerely,

JULIAN BRAITHWAITE

## **Annex**

**Response of the Government of the United Kingdom of Great Britain and Northern Ireland to Communication GBR 8.2018, received 28 August 2018, from the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.**

The UK Government takes seriously the human rights of all detainees, including British nationals. In response to the six issues raised:

First, in relation to the UK Government's position on the prosecution of British nationals in Iraq under Anti-Terrorism Law no. 13 of 2005. British nationals who have committed a crime in Iraq are subject to Iraq's laws, including the Anti-Terrorism Law. If it were to transpire that British nationals were being held in Iraq and were not treated in line with internationally accepted standards then, with the individual's consent, the UK Government would of course consider raising this with the local authorities. This could include if their trial did not meet internationally recognised standards for a fair trial or if their trial was unreasonably delayed compared to local cases. The UK Government shares your concerns about the use of the death penalty for those convicted of terrorism-related offences. It is a longstanding policy of the UK Government to oppose the death penalty in all circumstances as a matter of principle; we raise this regularly with the Government of Iraq.

On whether the UK Government seeks the extradition of its nationals who may be prosecuted for terrorism related crimes in Iraq, the decision is made on a case-by-case basis by UK prosecuting authorities. We do not comment on individual cases.

On whether the UK Government had officially sought information from the Iraqi authorities about the number and identities of British nationals facing trial in Iraq in connection with terrorism offences, and whether consular protection had been extended. Through our Embassy in Baghdad and Consulate General in Erbil, we regularly seek information about whether British nationals are being held in Iraq. If such a case were to arise, our Government, in line with our consular functions, would endeavour to provide consular assistance.

As your letter notes, the Government of Iraq does not publicly release information, including identities, on foreign nationals held in its custody. However, if we became aware of a British national arrested or detained in Iraq, we would aim to contact the individual in question as soon as possible after being told about his or her arrest or detention so that we could assess how we could help. We would then seek to provide assistance according to the individual's circumstances and local conditions.

Regarding UK Government contact with the families of British nationals facing trial or execution or sentenced to death for terrorism in Iraq, if a British national were to be held in custody in Iraq then, with the individual's consent, we would be able to share

information about his or her case with family members and any other nominated persons.

Last, your letter asked what steps have been taken to address the rights and protection of British children in Iraq who are detained or awaiting trial, or whose parents are detained or awaiting trial. The Iraqi authorities are responsible for safeguarding any child in the circumstances you describe. If it became apparent that they were not taking safeguarding measures, we would raise this with the relevant Iraqi authorities.

In addition, it is the position of the UK that consular assistance under the Vienna Convention on Consular Relations (VCCR), is a right of the sending State and not a duty. The views on consular assistance, expressed in the Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/70/304), cited at page 5 of the Joint Communication, do not find support in the VCCR or reflect the position under general international law. Further, the State parties' obligations in the International Covenant on Civil and Political Rights are limited through Article 2 to "individuals within its territory and subject to its jurisdiction", and not tied to nationality. For that reason, it is not the case that as a signatory of the ICCPR the UK has "a duty to see that the rights of its own nationals abroad are respected."

The UK Government has developed a strong working relationship with the Iraqi Supreme Judicial Council and will continue to work with the Council to increase the transparency of its investigation and trial procedures, and to provide support in areas of due process and human rights compliance. As stated above, if we were to become aware of a British national arrested or detained in Iraq, we would seek to provide consular assistance.